

MINUTES

ATLANTIC STATES MARINE FISHERIES COMMISSION

Ramada Plaza Hotel Alexandria, Virginia

JOINT WINTER FLOUNDER MANAGEMENT BOARD/ADVISORY Panel

January 11, 1999

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ATLANTIC STATES MARINE FISHERIES COMMISSION

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JOINT WINTER FLOUNDER MANAGEMENT BOARD/ADVISORY PANEL

January 11, 1999

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Attendance

Board Members:

Phil Coates, Massachusetts DMF, Chair
Bruce Freeman, New Jersey DFG&W
Pat White, Maine Gov. Appte.
Dr. Lance Stewart, Connecticut Gov. Appte.
Fred Frillici, Connecticut, proxy for Sen. George Gunther
Dennis Abbott, New Hampshire Gov. Appte.
Brian Culhane, New York, proxy for Sen. Owen Johnson
Harry Mears, NMFS, proxy for Dr. Andrew Rosenberg
George Lapointe, Maine DMR

David Borden, Rhode Island DEM
Gordon Colvin, New York DEC
Gil Pope, Rhode Island Gov. Appte.
Bill Adler, Massachusetts Gov. Appte.
John Nelson, New Hampshire F&G
Dr. Jaime Geiger, USFWS
Ernest Beckwith, Jr., Connecticut DEP
John Connell, New Jersey Gov. Appte.

Advisory Panel Members:

Bud Brown, Maine
Bill Gozzi, Connecticut
Jerry Carvahlo, Rhode Island

Robert Cobb, Connecticut
Charles Witek, New York

Ex-Officio Members:

Steve Correia, Massachusetts DMF, TC Chair
Kurt Blanchard, Rhode Island DEM, LEC Rep.

Other Commissioners:

ASMFC Staff:

Dr. Joseph Desfosse
Jack Dunnigan
Tina Berger

Guests:

Paul Perra, NMFS
Dr. Terry Smith, NMFS-NEFSC

Bob Morris, RI fisherman

There may have been others in attendance who did not sign the attendance sheet.

Joint Winter Flounder Management Board/Advisory Panel

January 11, 1999

SUMMARY OF MOTIONS

1. *Move to approve the minutes of the June 9, 1998 Winter Flounder Board meeting.*

Motion by Mr. Borden, seconded by Mr. Nelson. Motion carries with no objections.

2. *Move to approve the minutes of the August 5, 1998 Winter Flounder Board meeting.*

Motion by Mr. Borden, seconded by Mr. Connell. Motion carries with no objections.

3. *Move that the Board request the staff to begin the process of preparing an amendment to the Commission's Winter Flounder FMP. One purpose of this amendment would be to arrive at an overfishing definition and rebuilding schedule jointly with the New England Fishery Management Council.*

Motion by Mr. Borden, seconded by Mr. Colvin. Motion carries 7 to 0, with 2 abstentions (NMFS, USFWS).

4. *Motion to approve the (1998) FMP review.*

Motion by Mr. Adler, seconded by Mr. Nelson. Motion carries with no objections.

5. *Moved that the Board suspend consideration of any state's compliance with the F 40 contained in Addendum 1, as amended by Addendum 2, pending development of a new amendment to the FMP, so long as a state maintains and continues to implement and enforce its current regulations.*

Motion by Mr. Borden, seconded by Mr. Colvin. Motion carries with 1 abstention.

ATLANTIC STATES MARINE FISHERIES COMMISSION
Ramada Plaza Hotel, Alexandria, Virginia
JOINT WINTER FLOUNDER MANAGEMENT BOARD AND
ADVISORY PANEL MEETING
January 11, 1998

The Joint Meeting of the Winter Flounder Management Board and Advisory Panel of the Atlantic States Marine Fisheries Commission convened in the Washington-Lee Ballroom of the Ramada Plaza Hotel, Old-Town, Alexandria, Virginia, Monday afternoon, January 11, 1999, and was called to order at 3:35 o'clock p.m. by Board Chairman Philip G. Coates.

WELCOME, INTRODUCTIONS

BOARD CHAIRMAN PHILIP G. COATES: All right. We are going to take the roll first. Is everybody seated? Let's take the roll first. We're going to do it the same way we did before. We'll just call each state's name, and all those folks from the delegation can sound off. If you would, Joe. (Whereupon, the roll call was taken by Dr. Joseph C. Desfosse.)

DR. JOSEPH C. DESFOSSE: You have a quorum.

CHAIRMAN COATES: Thank you. All right. This is a joint meeting of the Board and the advisors, so we'll now call the roll of the advisors. (Whereupon, the roll call was taken by Dr. Desfosse.)

CHAIRMAN COATES: Five advisors. Okay. All right. I would indicate that this is the first meeting under the new procedure with both the Advisory Panel and the full Board, with the three members from each Board theoretically in attendance, and I think we have a couple of delegations with their full complement here, which I'm glad to see. You received in the mailing the agenda at this point. It's on Page 1 and 2 of the meeting notice, the final meeting notice. Are there any changes or additions to the agenda at this point? Go ahead, Joe.

APPROVAL OF AGENDA, MINUTES

DR. DESFOSSE: I would like to add "Approval of the 1998 FMP Review." This is about five or six months late. This is a review of the 1997 season. Following this meeting, the PRT will draft the 1998 review.

CHAIRMAN COATES: Okay. Any other changes to the agenda? All right. How about minutes? What minutes have we got to approve? There's a

couple I recall receiving.

DR. DESFOSSE: You should have copies of the minutes from the meetings of June 9th, which was during the Spring Meeting in Herndon, Virginia, and also from August 5th, which was in South Portland, Maine.

CHAIRMAN COATES: David.

MR. DAVID V.D. BORDEN: Mr. Chairman, before we take this up, I think it would be helpful, given the fact that this is going to be one of the first Board meetings under the new voting procedure, to have the other Commissioners that are present at the table that may possibly be voting and speaking on the record ask them to identify themselves.

CHAIRMAN COATES: All right. Well, probably the easiest way, assuming that everybody at the table are either representing the advisors or the Commission, why don't we just go around the table at that point? Would that be appropriate? And that way, everybody will know who the advisors are. Some of the advisors sounded off when their name was called, but I'm not sure everybody got a chance. And just identify whether you're a Commissioner and what state. And we'll start with George, because he's got the microphone. (Introductions from the floor.)

CHAIRMAN COATES: Okay. I guess we've identified everybody. Those at the table that are voting members, as you know, we vote by caucus. The three Commissioners, or two, or whoever's present -- if two commissioners are present and they can't reach a decision, I guess we have a term for that called the "null." But that's not going to happen because everybody's a good, happy family here, and we're all in agreement. All right. Let's get back to the minutes. We had two sets of minutes to approve. June 9th minutes, anybody want to give us a **motion approving the June 9th minutes.**

MR. BORDEN: So move.

CHAIRMAN COATES: Is there a second?

MR. JOHN I. NELSON: Second.

CHAIRMAN COATES: Any objection? June 9th minutes are approved. And?

DR. DESFOSSE: August 5th.

CHAIRMAN COATES: **August 5th. Motion to approve?**

MR. BORDEN: So move.

MR. JOHN W. CONNELL: Second.

CHAIRMAN COATES: Any objection? They're approved. All right. The next item on the agenda, I believe, in its normal slot is the public comment at this point. We will at this point, and any time during the procedure where we're considering a motion or perhaps at any other time, consider comments from the public. Does anybody from the public at this point wish to speak? Yes, sir. Come to the table, please and use the microphone down in that corner if you would, Bob.

PUBLIC COMMENT

PUBLIC: Is the comment period after the discussion?

CHAIRMAN COATES: There'll be an opportunity to comment on motions or other actions as we go along.

PUBLIC: I think I want to comment after the discussion.

CHAIRMAN COATES: Okay. All right. Any other public comment? All right. At this point, we'll hear from Dr. Terry Smith, who'll present -- he's the chairman of the SARC and -- oh, excuse me. Yes, Jack.

EXECUTIVE DIRECTOR JOHN H.

DUNNIGAN: Just given that this is -- before we get into the substance here -- the first meeting of a management board under the new procedure, I just want Commissioners to be aware that we have passed out the rule, the special rule that the Commission will be operating under. It's a pilot program during 1999. (Microphone off) I think it's fairly self-explanatory. Potentially each state is now a member of the Management Board rather than individual Commissioners from the states. Participation of the Potomac River Fisheries Commission, District of Columbia, Fish and Wildlife Service -- (Microphone back on). The participation of the other agencies is not changed. There's a special rule concerning proxies that will apply this year, and some suggestions concerning the conduct of meetings.

I would point out for you that essentially under this process, any Commissioner can make a motion from a state that's on the Board. A second needs to come from a Commissioner from a different state. And to answer the question that was asked a couple of minutes ago, in a situation where a state delegation can't make up its mind because there's a tie, they're supposed to cast a "null" vote, rather than tie. That's the term that we agreed in Georgia that we would be using.

This process will be subject to an ongoing evaluation. Specifically, it will be evaluated at the Spring Meeting and again at the Annual Meeting in

Connecticut this fall. And during the year, if we need to make any changes to this process, we certainly can do that. And from the staff's standpoint -- I know I speak for Dave Borden as well -- we look forward to having any comments and seeing if we can make this pilot program work best for everybody.

Thank you, Mr. Chairman.

CHAIRMAN COATES: Thank you, Jack. Yes. I should have identified appropriately that under this trial period, this is our inaugural meeting. The Section, of course, operates in a somewhat different format, the Section process being established under the Compact and still basically operating much like the boards now operate. This is only a take-off of the Section style of operation, and those that have operated under Sections are obviously quite comfortable in dealing with this. So those of you that are new to this, welcome, and we should move forward expeditiously. We'll now hear from Dr. Smith and the SARC results, the preliminary SARC results, if you would, Terry, on winter flounder.

SARC 28 PRESENTATION

DR. TERRANCE SMITH: Thank you, Phil. With the departure of Emory Anderson, I inherited the chairmanship of the Stock Assessment Workshops at the Center. I had done it previously back ending in '95. Bear with me as we get up to speed on this. Now, the process involves two meetings: A Stock Assessment Review Committee meeting, or a SARC, that occurred the first week in December in Woods Hole, and then a series -- the second part of the cycle -- a series of public presentation workshops given to the Councils and to this body. In this particular case, I think Joe Desfosse suggested and Jack asked if I could give a presentation to the Winter Flounder Board at this meeting. I'm happy to do so. I think the most recent assessment of the winter flounder would be relevant to your discussion today. I'll try to be brief -- I know you have a busy agenda -- and I'll be presenting an hour and a half or so presentation to the New England Council at the end of this month on all the stocks assessed, and similarly another presentation with the Mid-Atlantic Council the first week in February.

So today I'm going to talk about winter flounder. Now, this SARC that met in December assessed five stocks: Gulf of Maine/Georges Bank white hake and four flatfish stocks - Gulf of Maine/Georges Bank American plaice or dabs; Cape Cod yellowtail flounder; Georges Bank winter flounder; and Southern New England Mid-Atlantic winter flounder.

I'm going to focus my remarks on winter flounder today and primarily on Southern New England Mid-Atlantic winter flounder. There are three stocks of

winter flounder that come under your purview and under the purview of the New England Council, and that would be the Gulf of Maine stock. We have no analytical assessment for that stock, and we have no reference points to update.

There is a stock on Georges Bank that is an offshore stock, and not within any state waters. I will, if I have time and if the Chairman wishes to spend the time, I have some information on that stock.

So I'm going to focus on the Southern New England Mid-Atlantic portion of the stock. In terms of players, I have here an overhead showing who was on this most recent SARC, the 28th such meeting, and Joe Desfosse was a welcome addition. Najih, who worked for the Commission, now works for the State of Rhode Island, was an assessment expert, as was Dan Shick from the State of Maine. We have about a dozen people that sit on these panels, and it takes about a week to go through our assessments.

The SARC itself is the second meeting. There are also subcommittees or working groups that meet, and the two here were responsible for actually producing the five assessments that were reviewed. And again, I just put it up here to show that, with respect to winter flounder, there was quite a bit of state participation. All the states in the region provided their technical experts to work through the assessment. Mark Terceiro listed at the bottom is the chair of the committee and actually the person who was responsible for this particular assessment.

What we do is produce two reports from our meeting. One is called an advisory report. It's a short two-page standard format with some standard figures which describes the state of the stock and provides some management advice for each of the stocks assessed, and then a longer document which provides a consensus summary, 20 or 30 pages for each stock assessed. Those documents are not yet ready. We're still working on them. And so I have none of the supporting documents to hand out today, and what I'll do is go through the figures that we do have for winter flounder and give you some words from the reports.

Whenever we look at these particular assessments, we have what are called terms of reference, and for Southern New England winter flounder, that was to update the assessment through '97; characterize stock size and fishing mortality; to make some projections relative to catch for spawning stock biomass; various levels of F, and we'll get to that at the end -- various levels of fishing mortality, we'll get to that at the end of the presentation -- and then also look at the overfishing definitions that are a part of Amendment 9 to the Northeast Multi-Species FMP. And we'll be touching on that a bit as well. Just for the record, Georges Bank

winter flounder had the same set of terms of references.

What I'm going to do is put up some figures, show you results, and I'll read through some words and talk about it a little bit. Again, the advisory report presents information in a standard way for every stock assessed. It also presents standard figures. The panel labeled E1 is a chart depicting recent fishing mortality rates and recent catch. And if I could read you what the advisory report says, looking at that figure as well as Figure E2, which shows biomass, total biomass with a solid blue line; spawning stock biomass, a dotted blue line; and then recruitment estimates for the various years.

The Southern New England Mid-Atlantic winter flounder stock complex is at a medium level of biomass and fully exploited. Reduction of fishing mortality and, to a lesser degree, improvement in recent recruitment have contributed to rebuilding of the stock. Total biomass in 1997 was estimated to be 17,900 metric tons, which is 64% of the biomass that produces MSY. Fully recruited fishing mortality in 1997 was .31, about equal to the ASMFC target for 1997, which is an F 30% target. That number is .29.

The corresponding total biomass fishing mortality in 1997 was .24, which is below that fishing mortality rate that produces MSY. So what's happened, the catch has increased slightly since '94, but the fishing mortality rates have been sharply reduced as of '94 and have remained in the area of .2 to .3 over recent years. There is some rebuilding of the stock going on because of reduced fishing mortality rates, as well as some better than record-low recruitment. The recruitment has not been up to long-term average, but it has been sufficient to allow for some rebuilding in the past several years. This is generally a positive story with respect to this stock.

There is a series of reference points that we need to discuss. Again, the ASMFC's reference point is currently an F30, which is 30% of the maximum spawning potential. You also have to go into effect in 1999 an F40 reference point.

I'm going to put up now a figure which depicts what is called the control rule. This is not your control rule; this is a New England Council control rule. These control rules are approved as part of Amendment 9 to the Northeast Multi-Species FMP.

And what I'm going to do, Mr. Chairman, is just illustrate how this one works. I don't know that we need to spend a lot of time discussing the control rule today. I think it does have some relevance relative to how you wish to set your overfishing targets this fishing year. But the control rule set that the New England Council adopted is a fairly complicated one, and they were recommended by a panel called the Overfishing Definition Review Panel, and the Council

has voted on and approved as part of Amendment 9 this set of control rules.

What I have on the screen right now is the one that applies to winter flounder. It has a couple of parts. It has threshold fishing mortality rates. That's the upper red line and the upper green line. It has target fishing mortality rates. That's the lower dotted lines that are black and blue. The way this works or will work is that the biomass is determined for 1998 by an assessment such as we just completed, and in this case it's around 20,000 metric tons. That and the most recent estimate of fishing mortality rate depicts a box labeled 1998. If you drop down and intersect the target F, in this case it's a five-year -- the control rule calls for a five-year rebuilding target; the blue line is a ten-year rebuilding target -- you get a target fishing mortality rate, which in this particular example is .21.

You can then apply that rate and determine what the biomass will be in 1999, and that's as shown in the other box. I've labeled on the left axis what the F 40% reference point looks like in biomass terms. And one more technical point which I can attempt to explain further with questions, or Steve Correia can, we're going under these control rules to a biomass reference. This has not been true in the past. Reference points have been strictly based on fishing mortality rates, which is harvest rate or mortality on a population perspective. That still exists, but so do reference points based on the biomass of the stock. The fishing mortality rates that are biomass based are a different metric than fishing mortality rates on fully recruited stocks. Heretofore, we've always presented F's as fully recruited fishing mortality rates. Now, under this set of control rules, we're going to have to present two sets of fishing mortality rates at all times. One is biomass based, and one is fully recruited. And we have to go back and forth between the two metrics. I apologize for any confusion this may bring, but we'll try to emphasize when we have the discussion on targets just which fishing mortality rates we're talking about.

That is the control rule. And again, it does not apply to this body.

Let me talk a little bit about projections. I think that's probably more relevant to today's discussion. This again is taken from the advisory report. We have done some projections under a number of scenarios, and I'll put up a chart which shows these momentarily. So you can understand the basis, we've derived the fishing mortality rate for 1998 based on what the Multi-Species Monitoring Committee has told us the catch will be for '98. Average partial recruitment, mean weight and recruitment at age one is taken from the entire distribution. It's a projection or a forecast from the entire distribution of recruitment over the last nine

years.

And we've projected out various targets. Let me just put up the table for you so you can see what it looks like. Again, these kinds of tables are a standard part of our advisory report, across - short-term forecast. But let's just review this, and I think the numbers will probably tell us a little bit about where we are.

As of the end of 1998, this assessment estimates that there are 20,200 metric tons of biomass. This was for the Southern New England Mid-Atlantic winter flounder stock. That landings will be four and a half thousand tons and that discards are 300 metric tons. Given that, we can project what's going to happen in 1999 with respect to biomass, landings and discard based on what particular management approach you adopt. Similarly, we can project up to 2000 what the biomass might be.

And so we looked at a range of scenarios. From the top is the most restrictive to the least restrictive at the bottom. If one were to adopt an F 40% rule for 1999 that translates to a fully recruited F of .20 or an F of .16 in biomass terms, biomass would increase to 23,000 metric tons, landings would decrease to 2,700 tons. Biomass would further increase to 27,500 metric tons in year 2000, which is very close to the biomass target or the biomass that produces MSY.

I mentioned the New England Council's control rules and target F's. I showed you two lines. The lower line, the black line depicted on the earlier graph, is a five-year F target line. If we use that particular strategy for 1999, the F that would be obtained would be .28 in fully recruited terms; .21 in biomass terms. Biomass would not increase as much in '99 and 2000. Landings would decline relative to '98 landings, to 3,600 metric tons. We would, in the year 2000, be up to 96% of our biomass target. We'd be very close to the biomass that produces MSY and very close to MSY then.

If instead you used a less conservative target, the so-called ten-year target, the F that would be applied in 1999, .33, .24 in terms of biomass, landings would be slightly less than they were in 1998, and biomass in 2000 would be at 90% of BMSY.

Your current -- I guess, up until this year the guidelines suggested F 25% was ASMFC's target approach. That translates to a .35 F and to landings that are about equal in 1999 to that which occurred in '98. A little less rebuilding going on there, slightly less than the previous scenario.

And then finally, just to show you what happens if you stay where you are, we estimate that the fishing mortality rate that applied in '98 was .39. If we were to continue that in '99 and 2000, then landings would increase slightly and the biomass would increase but not as much as in the previous scenarios.

I'm going to take this down for the -- yes, a question?

MR. ROBERT COBB: Yes. I wondered with all these figures and everything like that, as a layman I wondered what it would take to get the biomass back to what the stock was in 1980?

DR. SMITH: Okay. I tell you what I'm going to do, if you'll allow. I'm going to finish a couple more slides on the presentation, and then we can go back to those kinds of questions. I actually have a figure that may allow us to do that. And we'll have some discussion on strategies --

MR. COBB: Thank you.

DR. SMITH: -- in a more informal sense. I'll just show one more slide to show that we are making some progress with this stock. Three panels depict the distribution of the biomass at various age fish, and back in 1983 when we had a fairly good level of spawning stock biomass, you can see that a lot of that biomass was made up of age three, four, and to some extent age five fish.

In 1994, which represented a record low in landings, a record low in spawning stock biomass, there were no young fish about. In fact, the whole population distribution was depressed. And we can see at the bottom panel that as of '97, we are starting to see some rebuilding of the younger fish. And this is good news, because if they can move up into the larger sizes, we'll have some yield increases.

We have a technical term for the partial recruitment of these ages. Age four fish are fully recruited for the fishery; age three are, what, 61% recruited? Something like that. And age two, I think, are 25% recruited. So there is some mortality on ages down to two, but age three and up and particularly age four and up contribute to the total landings. I don't know how you want to proceed, Mr. Chairman. I have some information on Georges Bank winter flounder, but we could stop at this point and entertain questions that might relate to targets for 1999.

CHAIRMAN COATES: That might be appropriate, if you want to continue on in that.

DR. SMITH: Do you have a question? The question was what do we have to do to get back to 1980 biomass?

CHAIRMAN COATES: Yes, that was the question.

DR. SMITH: And I don't know that I have estimates that go back that far here.

MR. COBB: My question was how long would it take us at the current rate or would we ever get back to that point?

DR. SMITH: Steve's reminding me that the control rule gets you to a particular point. It gets you to

the biomass that produces MSY. And so is that -- that's close to where it was in 1980. So I guess an answer is that these things I'm calling control rules are technical rules that will, by construction, move you to biomasses that are called for in the new overfishing definitions. They happen to be consistent with biomasses that occurred in the early '80s. Yes.

MR. BUD BROWN: The number I have here, in '81 the biomass was forty-three five thousand (43500), and biomass MSY is 25830 for Southern New England. So that's 60% of what his recollection would have been.

DR. SMITH: Right. These biomass figures are determined from what are called surplus production models, and they've been re-estimated by both the Winter Flounder Technical Committee and by the SARC. And I think the numbers that we're suggesting now for a biomass that produces MSY are probably fairly accurate. They are, though, tuned, what are called tuned or graded to the virtual population assessment numbers.

CHAIRMAN COATES: Who else had a question? Jerry, did you have one?

MR. JERRY CARVAHLO: On the previous chart, the last figure you gave was a .39 with 21.7. What would the percentage of the biomass be if we stayed at that level?

DR. SMITH: The last forecast I showed?

MR. CARVAHLO: Yes. The bottom figure, .39 and 21.7.

DR. SMITH: Well again, as of the year 2000, we estimate biomass to be 24,100 tons, which is 87% of BMSY.

MR. CARVAHLO: Thank you.

CHAIRMAN COATES: Bud, did you have a --

MR. BROWN: Yes, I have a question. I understand you don't have the data for Gulf of Maine winter flounder. The question I have is what specifically do Massachusetts, New Hampshire and Maine have to provide so you can do that? Because they never have had the data? And secondly, I guess, a question for the Board is, are those states out of compliance because they aren't providing the data necessary for you to do an assessment so that we can manage our Gulf of Maine winter flounder?

CHAIRMAN COATES: Can we hold off on the Gulf of Maine until we get through the questions on this? It's a good question, but I'd like to get through the Southern New England Mid-Atlantic questions. Gil.

MR. GIL POPE: Yes. One of the questions that I'm asked a lot about is why are we using two different forms of F. I know you kind of touched on that earlier, as to why one is an F at one level, like we use with striped bass, and another one is an F at a percent, like

as 30%, 40% and so on. Do you find that less confusing, more confusing or why did you choose to go with two different types of F?

DR. SMITH: We didn't choose it. We were forced to. We have been traditionally using what we call fully recruited F's, and overall F -- let me back up one step. When we do an assessment, a cohort or virtual population assessment for a stock, we're looking at the fishing mortality rate for every age in that stock. That's the way the models actually work. They look at the mortality over age classes.

And so when we come before a body and talk about fishing mortality rate, we need to average out what that F is in some way. Traditionally, we have done it by looking at that portion of the stock that's vulnerable to fishing, and that's what we call a fully recruited F. We've done that for years and years. I don't know how far back it goes to. You guys have only been around for a few years. And that is the basis for all of the historical reference points that exist with ASMFC as well as with the Council.

The New England Council under Amendment 9 adopted a new set of overfishing definitions and some new control rules. Those are based on revisions to the Magnuson-Stevens Act, called the Sustainable Fisheries Act, which placed National Standard 1, the overfishing definition onto a biomass basis and talked about the biomass that produces maximum sustained yield, and about maximum sustained yield, and about the fishing mortality rate that produces maximum sustained yield. Those biomass numbers then represent the entire population, recruited or not. And so when we look at, say, a parameter that's dictated by the Sustainable Fisheries Act called FMSY, we need to calculate it in biomass terms, because of the biomass derived F, rather than a fully recruited F.

So we're as confused as anyone else. We realized at this past SARC that there were two entire metrics, and that we'd have to be switching back and forth between the two. And we've attempted to do that here by showing both, but it will cause some confusion, I think, until we've worked through how to do it.

But to answer your question, once you go to an MSY basis and the biomass that produces MSY and the fishing mortality rate that sustains MSY, you are now in a biomass dimension.

MR. POPE: So you're basically adding Years 1 through maybe 2 or 3, depending on the sizes --

DR. SMITH: Correct.

MR. POPE: -- that are allowed to be --

DR. SMITH: Right. The entire population then contributes to the F. Now, if the particular case I said, that age one is not recruited, then it doesn't contribute anything to the F. But these other years do. And so it's

going to vary from stock to stock, depending on what the traditional fully recruited F is and depending upon what's called the partial recruitment, the vulnerability of the various ages to fishing. And Southern New England winter flounder, the so-called F that we've been working with, the fully recruited F, is for ages four through six. But now we're adding in some fish of age three and age two that are vulnerable to fishing.

MR. POPE: Just four through six and not four and up?

DR. SMITH: The Southern New England winter flounder is a four to six. The six group is what's called the plus group, six and up.

CHAIRMAN COATES: Other questions on the Southern New England? Seeing none, Bud's question, I guess, was about the Gulf of Maine stock. I don't know what the schedule is for Gulf of Maine assessment. Steve, is there anything on that?

MR. STEVEN J. CORREIA: I can at least fill you in a little bit.

CHAIRMAN COATES: And then we can answer his other question.

MR. CORREIA: What we've tried to do with the assessments for the Gulf of Maine, first of all we looked at the catch sampling, and the sampling wasn't sufficient to do a VPA, which left us with some surplus production models to work with and also the survey Z's. Now, the time series is relatively short for the Gulf of Maine, because we only went back until 1978 with the surplus production. What happened was we have estimates of the trends in F and the relative trends in the biomass, but we don't have absolute scale in that, because the model was highly variable in terms of what the scale of FMSY would be, what the scale of BMSY would be. So we know what the biomass has been doing, and we know what the F has been doing, but we don't have a scale for it.

Now, we also have the survey Z's coming from, like, the Mass. survey, which has a good catch at age, but again you start running into some availability issues. We also did a relative exploitation index which shows results very similar to the surplus production in terms of the F dropping and the biomass coming up. But again, we don't have any scale for that to the biological reference points. In fact, the biological reference point that the ASMFC plan has been made with an M of .35 and hasn't been updated since. So I think our choices right now in terms of an assessment is looking at several different models, surplus production models to see if we can find one that works with the data best. In order to do a VPA, it's going to take a time series of catch at age data to do that, and so that's not something that's going to be done in the foreseeable future.

CHAIRMAN COATES: Now, in answer to your second question, are the states out of compliance, I don't believe they are. But I know there's been a dilemma getting a sufficient data base on which to form the basis of an assessment. But at this point I don't believe, since it's the states themselves that would make the determination, that they've really had a discussion about the compliance issues. It's been a frustrating situation in terms of not having the data available, and I think that's something we're going to be looking at in the short term.

All right. Now, Terry did have some information on Georges Bank. I don't think it's particularly germane to the ASMFC's business, but I'd be curious if you could capsule the situation, Terry, just to see if there are any trends that we recognize in that, you know, it's a stock that's exploited separately. There's a huge closure out there that affects a large amount of the stock. If you could give us a very succinct summary of that, then maybe we could move on and start talking about the issue of F40, reconciling F40 with the Council's plan, what the Council's planning to do through Framework 26 and 7 as well as Amendment 9, and move along in that direction.

DR. SMITH: What I'll do, Mr. Chairman, is put up this part of the advisory for Georges Bank winter flounder, and just characterize it for you. This stock is also overexploited. Here we have a situation where recent recruitment has been quite poor. In 1997, biomass was estimated at 3,500 metric tons, 60% of the biomass proxy that is embedded in the Amendment 9 overfishing definition. And fully recruited fishing mortality rate is .34.

Relative to the Amendment 9 overfishing definition, the new definition, the stock is overfished, which means that biomass is too low and overfishing is occurring, which means that F is too high. If we look at the new control rule for Georges Bank winter flounder, then we get -- and I don't have a picture of it here, but it looks slightly different, although it has somewhat the same shape or flavor as what I showed for Southern New England. It doesn't use absolute biomass; it uses a biomass index from our survey. You get a fishing target rate very, very close to zero, .03. The situation for Georges Bank is that recent F has come down, but recruitment has been poor. The stock is not rebuilding. The target rate control rule on the state of biomass is such that the F target you get by applying the new control rule to this stock is a very, very low number, virtually no fishing target.

And that's all I have on Georges Bank, unless there are more questions.

CHAIRMAN COATES: Thank you. So one of the bigger problems in the Georges stock has been the

lack of recruitment?

DR. SMITH: That's correct.

CHAIRMAN COATES: And it's an interesting comparison, because in looking at the Southern New England stock, there does seem to be some recent recruitment trends, which may be related to the fact that the states have taken such stringent action within their waters to restrict harvest. And I know Massachusetts has a spawning closure that's been in place for a number of years, and Rhode Island put in very stringent limits on their fishery within Narragansett Bay and some of the salt ponds have been protected as well. And these are the major producers of Southern New England flounder.

DR. SMITH: Except, Mr. Chairman, for the most recent year class, which is not terrible but a little bit down in that if you look at our VPA, we estimate the final F as -- let's see here -- the F in 1997, .31, and then we estimate that F comes up in 1998, and that is because of this slightly reduced recruitment coming into the stock and a slight increase in landings. So if we had very, very high recruitment, we would have a much more positive situation, but you're right, Mr. Chairman. The stock has been rebuilding and will continue to rebuild under most scenarios.

CHAIRMAN COATES: Okay. Any further questions for Terry? Yes, Bruce.

MR. BRUCE L. FREEMAN: Terry, a question has been bothering me for some time. Winter flounder from the standpoint of their biology is a species that spawns in the estuary, and yet you define a stock on Georges Bank. Has it been determined whether in fact those fish do spawn on Georges Bank and recruitment is only from those fish?

DR. SMITH: Yes, it has. We've done some work on these stocks, and again, at this most recent SARC, the working groups -- and probably Steve can speak to the details; I didn't participate -- looked at the stock definitions again. And I know that the SARC did. And the Georges Bank stock is quite well defined. It tends to stay right on those particular grounds, caught on the grounds, spawns on the grounds.

Now, south of there, the so-called Southern New England Mid-Atlantic stock is really a stock complex. We use that word purposely. There are localized portions of the stock, particularly associated with estuaries. And so when I talk about Southern New England Mid-Atlantic, I'm talking about this group, east and south of Cape Cod all the way down the coast. The Georges Bank stock, though, has remained fairly isolated from both the Gulf of Maine and the Southern New England stocks.

MR. FREEMAN: And spawning has been determined to occur in the ocean.

DR. SMITH: Yes. They move apparently -- Steve can probably fill us in, but they move around on the Bank itself shallower or deeper, but tend to stay on the Bank.

CHAIRMAN COATES: Yes, Bud.

MR. BROWN: Back to the Gulf of Maine. I want to get some confidence here. As I read through it, Steve, you talked about Gulf of Maine stocks. I understand why you couldn't do the traditional assessment. But is it fair to say that the 8900-pound landings, metric tons in '97, the Gulf of Maine stocks, as I read it, they're 27% of MSY, whereas the Southern New England stocks are 80% of MSY. Is that a fair assessment?

MR. CORREIA: The trouble with the Gulf of Maine stock again is that when we did the production model, the confidence around those estimates, the confidence around MSY, were not high, so we didn't have a lot of confidence to say, well, we think, there's a certain level of MSY, but we looked at the trends, because we have confidence in the trends. There are some other approaches that we can try to take. I know that the Overfishing Panel of the Council also has to look at this, because they also need an overfishing definition for this stock which they were not able to derive.

DR. SMITH: There is currently no overfishing definition for the Gulf of Maine stock. The panel did not choose one or did not recommend one for that particular stock.

MR. BROWN: You probably have -- Steve has heard me many times, maybe you haven't, Terry, but essentially they're a recreationally extinct species in Maine, and it's my cause, you know, and I'm going to keep driving you to that point, you know, to -- I mean, we need an answer, because right now the answer is we don't know for sure because the confidence levels are so wide. But the bottom line is they still aren't there, and they always were.

MR. CORREIA: What we have is we have a survey index which has been increasing, but most of the increase appears to be in the partially recruited ages. So all of a sudden, since about '94, we've seen a large increase in that portion of the survey. For the fully recruited ages, we don't see those indices going up. When you do a biomass-weighted F on the whole population, you get a trend that shows that the biomass-weighted F is dropping or the relative exploitation rate is dropping. When we look at the survey Z's, you know, it's the ratio of five-year-old fish to four-year old fish in the previous year. And those, we don't see a downward trend in that, which led us to believe that the fishing mortality rate is probably still high on that stock. But again, you don't have a lot of precision with

these tools that we're working with.

CHAIRMAN COATES: Okay, Bud?

MR. BROWN: Okay.

CHAIRMAN COATES: David?

MR. BORDEN: Thank you, Mr. Chairman. Just one point on the Gulf of Maine stock. I'm a little bit ill at ease in terms of where we reside with this. In other words, we don't have an overfishing definition, and yet all the evidence suggests that the stock is over-exploited, and yet we haven't really started the process to rebuild that stock.

And as imperfect as it may sound and be, I think we should ask the Technical Committee to come up with what they think of is an appropriate surrogate in this, given the circumstances, and bring that forward to the Board with all the imperfections that may be associated with it. In other words, let's pick some strategy to at least start the process of rebuilding that stock. And we may revise it every couple of years as the data base and analytical capabilities in the Gulf of Maine improve. But let's not delay it any longer.

CHAIRMAN COATES: Okay. That's a good question, a good point. I'd just ask Steve if the Technical Committee has had the opportunity to even begin to discuss this type of a possible surrogate or some strategy that could initiate at least some rebuilding process? And if that's the case, I'm going to ask the Board for a reaction to that.

MR. CORREIA: Well, there's a couple of different approaches that we could take. Again, one would be to continue to look at various different surplus production models. The other way that we could do it is we could try to estimate a partial recruitment and come up with a fully recruited F, much like we did when we started the plan using the BIOREF. But it still leaves you with the problem of trying to measure your F.

If we get the surplus production model going, then we might get a measure of the F. If we go with the fully recruited F, then we're likely to be stuck using survey indices, catch curve analyses to do it, which is again what was initially visioned when we first started the plan.

One of the delays for doing this was because we knew that the Overfishing Panel was developing overfishing definitions and was going to develop one for the Gulf of Maine. And I guess at this point what may be more useful is to decide which overfishing definition approach this Board's going to stay with. Will they stay with their F25, F30, F40 plan and go along that way? Will they go more towards a model like the Council has with a biomass-weighted F and

have the F slide according to how close to BMSY you are? And so that would be useful advice for the Technical Committee. **And I guess this would be a good time for me to raise that issue, because if you look at the advice that the SARC makes relative to the F40 reference point that this Management Board uses in the overfishing definition and the proposed New England Council definition which Terry has shown, or the old Amendment 7 definition, you come up with very different management advice.**

For example, if you take the 1998 projected F, it's about .39. Now, this is below the Amendment 7 overfishing definition for the stock, which is .43, so your advice would be, okay, you're below the overfishing definition; you don't really have to do much. If you look at it relative to the surplus production control rules developed, if you use the ten-year rebuilding scheme, then your advice would be that you would need a 15% reduction on the 1998 F to reach the control rule F. If you use the five-year rebuilding, then the advice would be that you would have to reduce fishing mortality by 28%. If you look at the F40 reference point that the ASMFC Winter Flounder FMP has, then you would need a 49% reduction between now and next year to achieve that F40 target.

So I think it's very important to decide what target we're going to be shooting for. Our plan calls for F40. Most of this catch, commercial catch, does come from the EEZ.

CHAIRMAN COATES: Good points. Go ahead, David. Follow-up?

MR. BORDEN: Yes. I mean, I'm actually eager to get into that discussion, because I just think there's been a lot of confusion with these dual standards that we've had in terms of communicating the situation to the industry and legislative leaders and so forth. So my own view there is that we need to standardize it. But I still think that -- on the first point, I still think that we need to task the Technical Committee with doing that analysis. And then following that, I think we need to address this issue that you just raised, Steve, which is pick the strategy we want and standardize the strategy we want, and then you'll have clear guidance on where you want to go, you know, what time frame.

CHAIRMAN COATES: Okay. Toward that end, is there anyone that objects to basically **charging the Technical Committee with beginning to develop some strategies to address rebuilding for Gulf of Maine flounder?** I mean, that was the specific concern that David had. Seeing none, I guess we can consider that a charge at this point, a consensus. I don't

think it requires any kind of a vote. Steve, do you want some further direction?

MR. CORREIA: Yes, I want to be clear. What you're asking me to do is to come up with a new set of reference points for the Gulf of Maine and then to try and figure out where we are relative to that and come up with a rebuilding scheme?

CHAIRMAN COATES: That would be appropriate. Yes, go ahead.

MR. BORDEN: Mr. Chairman, not trying to monopolize the microphone, but I think there should be great latitude for the Technical Committee with that general charge. If they can come up with a better scheme that achieves that end, then by all means bring it forth.

CHAIRMAN COATES: So you have carte blanche, Steve. Terry.

DR. SMITH: I'd like to, I think, say something that Steve said a moment ago. It would be good also to have some discussion or have some dialogue on the reference points themselves, whether you wish to continue to use an MSP type target like you have now, or whether you wish to go to a control rule type system based on MSY like the Council has, because that will determine, I think, greatly the technical approach.

REVIEW OF NEFMC AMENDMENT 9 MEASURES

CHAIRMAN COATES: Okay. That's the next discussion I want to have. But we do have a -- in fact, I think we probably ought to have it and kind of break it out of the schedule for the agenda, the agenda which calls for us to get the recommendations or the actions proposed under Amendment 9 of the Council's rebuilding program as well as the two frameworks that have a bearing as well. They are also going to have a play in this. Toward that end, then, why don't we discuss -- as Steve indicated, there are four different scenarios, or four different targets here identified in the Southern New England area. Gil, did you want to make a point? I'm sorry.

MR. POPE: To what they were asking us, which is, as far as whether it's what they call a control model or whether it'd be the ASMFC model that we are using now, which one of those two would have the greatest confidence bounds or the least confidence bounds, or which one that they may feel would give us the greatest accuracy? That was going to be my question. And then of the two systems, which is what I guess they're asking us, is which one tends to give you the greatest accuracy or the greatest, the smallest confidence bounds?

MR. CORREIA: Well, I wouldn't put it quite in

the manner of trying to measure it in terms of accuracy. What they are are very different approaches in the way that the F targets. The difference I think to look at on this is to say whether or not -- in the ASMFC what we've done is we've defined an overfishing definition of F25, and then interim target of F30, and rebuilding target of F40, with no definition of what it means to be rebuilt.

So basically, when the plan went through, we were going to go at F40, and somehow the committee was going to go back and try and figure out when you were rebuilt, at which point you would move to a different fishing mortality rate, one when the stock was rebuilt.

This approach that the Council has has a biomass component in it. So now the F is determined on what the stock size is. So if stock sizes are low, F is going to be low, and you're going to be in rebuilding. And it has a definition for when the stock is rebuilt, and it has a pathway for getting you there. I'm not sure that there's a difference in terms of the precision between the different models, but the approach is very different.

DR. SMITH: I think my answer has to do with the amendments to the Magnuson-Stevens Act, and the National Standard 1 for overfishing now has, at least on the federal side, a clear basis in MSY. And again, that's a biomass dimension that we've not looked at with complete rigor the way that the Amendment 9 changes do that.

So again, I would agree with Steve. It's not so much a matter of precision; it's kind of how are you doing in terms of removals of fish. That's the F question. Are you taking too many fish out every year? And then there's another question: How many fish are out there? Which is partly related to how much we're removing. It's also related to recruitment. It's also related to growth. And the new perspective under the Magnuson-Stevens Act is to look at both of those simultaneously.

CHAIRMAN COATES: Good point. I think the clearest illustration of that dichotomy was haddock when we had haddock at a biomass that was many-fold below its historic MSY, but yet the fishing mortality rate was at a very low level. And people realized the frustration of trying to deal with that, because we didn't have a problem with haddock. It was just there, being fished, exploited at a very low level. And finally some of us decided that it was time to start looking at rebuilding the stock size to something more appropriate, consistent with historic landings.

All right. I think that we have an opportunity to really do some crafting here today and set some direction with regard to how we want to begin to look at some of this rebuilding effort, and I think one of the things that comes to mind to me is the fact that we do

have this -- as Terry noted, there is this BMSY or MSY stock size component to the Council's plans. The Council is kind of mandated to do certain things, and certainly under the ASMFC plan, there are mandates to that.

The question becomes which is maybe the more flexible in terms of yielding or merging or however we attempt to look at this. At one point, I know, 85% of the landings were coming from the EEZ, so there was a clear dominance, and in fact that's what prompted the ASMFC to turn to the New England Council and ask them to do their share, as it were, for flounder restoration in federal waters, which led to the development of Amendment 9 and also the two frameworks.

So that's another aspect of this. So at this point, you know, I think we need to take that into consideration. The Council has responded. I'm not sure there's a great deal of -- there doesn't seem to be a huge amount of support for the actions the Council has taken thus far, but nevertheless the size limit change for winter flounder has in fact been submitted as an amendment, and then there are two frameworks in the works. I think actually the annual adjustment has the more significant bearing. Framework 26 will have some spinoff value in the Gulf of Maine, interestingly enough, because of the huge array of area closures that coincide with flounder spawning as well as codfish spawning. So there could be a spinoff there of yet undetermined value.

But certainly, the annual adjustment framework, Framework 27, has some significant changes in it, and including an array of mesh regimes, including a six-inch diamond, six-and-a-half-inch square throughout the range of the New England Council. That's one option. I think there's three options, Steve, if I'm not mistaken that we're going to reach closure on at the next meeting?

MR. CORREIA: Yes.

CHAIRMAN COATES: Then there's a six-inch -- they're all six-inch diamond, six-and-a-half inch square configurations. The three options, as I recall are, as I said, one throughout the range, one for the Gulf of Maine only as defined by the -- is it the 42° 20 line? And then another option would be -- it would include three statistical areas south of the 42° 20 line, so a good part of Upper Nantucket Shoals and out to the Great South Channel is encompassed in the third option, which would also include six-inch diamond, six-and-a-half-inch square. Of course, these mesh proposals are designed to not just deal with winter flounder; they're designed to transcend winter flounder and deal with some of the other stocks that are also in trouble. So the Council at their next meeting will make a decision as to

which one of these mesh options to select for inclusion in this framework.

I think I've kind of moved into the next scenario here about Amendment 9 options without having this further discussion about how we want to merge the different management objectives of the Council and the ASMFC. But I thought you'd want to know that as background, those of you that aren't familiar with what's going on in the latest New England Council. Part of the mesh size change was in response to the Mid-Atlantic Council's concern in, I believe, a letter that was submitted to the Secretary with regard to the fact we'd raised the minimum size of winter flounder without addressing the needed mesh changes. And this raised, I believe, National Standard 9 issues, at least in the eyes of the Mid-Atlantic Council. So why don't we -- well, does anybody want to comment on that, I mean, these actions? And, you know, your best opportunity would be to come to the Council meeting. David, I'll start with you and then I'll work right down. There's a bunch of hands up.

MR. BORDEN: Yes. Just to start with -- I actually had two questions. One is a process question. In terms of the process, if in fact we want to change our overfishing target, my assumption here is that it would require an addendum to the plan?

CHAIRMAN COATES: Amendment?

MR. BORDEN: Amendment or addendum?

CHAIRMAN COATES: We need to get clarification on that, I think.

DR. DESFOSSE: I asked Jack before, and he said an amendment.

MR. BORDEN: An amendment. Okay. Given that, the second question is, it's my understanding, without going into all the specifics, but the Council plan on winter flounder is currently a ten-year rebuilding program, is that correct?

DR. SMITH: Right. And the current -- you mean prior to approval of Amendment 9?

MR. BORDEN: Correct.

DR. SMITH: Right. There's an F20% reference point based on an overall ten-year notion, not a formal ten-year rebuilding schedule like we see with these control rules. And in fact, under that definition, Southern New England winter flounder is not overfished.

MR. BORDEN: Okay. And the third question is, was there a Scientific Committee recommendation on this, or PDT recommendation on this particular issue focused on this issue that we standardize the two terms of reference in terms of the Commission and the Council, Steve?

MR. CORREIA: I believe what the Technical Committee did was present the scenarios of what would

happen if you maintain these two separate standards. And the last time we did it, because the confidence intervals in the surplus production were a little bit wider than they are this time, it so happened that the target for that control rule matched what the F40 was. So you didn't have a problem. But eventually it would change. But now those confidence intervals have shrunk, and so now you see a more substantial difference in terms of what that F is. So now you're starting to get into the scenario where the advice is different based on the targets.

MR. BORDEN: Okay. Just a final point I'm going to list is then it's my understanding from both Terry's and Steve's presentation that if in fact we stick with our current definition, it will require 49% reduction in fishing mortality, whereas if we adopt the Council's definition then in fact there's a 15% reduction in fishing mortality that is required. I'm just trying to make sure I understand the different options. Given that, Mr. Chairman, and given the very high level of confusion that I've seen surrounding this issue, my preference would be to adopt, for us to proceed to develop an amendment to the plan to adopt the Council's definition. And I do that not to necessarily avoid restrictions on the fishing industry. The reason that I advocate that is that I do think it's conservative. I think there are a lot of technical merits to that particular strategy that Terry has pointed out to us in previous discussions.

And most of all, I would support that because it would eliminate the confusion in the fishing industry between our definition and the Council's definition. We all ought to get on the same page on this. If in fact we do that at some point, then I think another issue is whether or not the Council and the Commission will both then move forward with 15% restrictions simultaneously. But that's a separate issue.

CHAIRMAN COATES: Okay. So are you prepared to make that as a motion? I believe we're certainly in a situation now where we could consider this as an action by the -- and I think what we need to do is you might want to consider making that as flexible as possible, so maybe charging the Technical Committee with an analysis that would, you know --

MR. BORDEN: Before making that -- I'm happy to make a motion, but I'd just as soon hear some more -

CHAIRMAN COATES: All right. Let's get some more discussion. I know Gordon is anxious. He's been looking at me with a beady stare for the last hour or so.

MR. GORDON C. COLVIN: And the reason for that, Mr. Chairman, is that I'm thoroughly confused. Add me to the ranks of the fishermen who are thoroughly confused. For starters, where are we on our

agenda, Mr. Chairman?

CHAIRMAN COATES: We're somewhere between, I'd say, 4, 6 and 7, 5, 6 and 7.

MR. COLVIN: Well, that's part of the basis of my confusion.

CHAIRMAN COATES: I did provide a review of the actions approved under the Amendment 9 and the two frameworks, and --

MR. COLVIN: Can we back up on that very point?

CHAIRMAN COATES: We can back up on it, certainly.

MR. COLVIN: I guess under Item 6, I had anticipated that it would be laid out for us very clearly and in detail what exactly the New England Council has done under its Amendment 9 and any recent framework initiatives, because I've lost -- that's getting a little jumbled up here, frankly. And what the status of Amendment 9 is, because I believe it's a long way from approved Secretarially.

CHAIRMAN COATES: It has been submitted, so it's out of the --

MR. COLVIN: A lot of those were submitted.

CHAIRMAN COATES: Yes. It's out of the Council.

MR. COLVIN: And what I also need to hear at some point -- and I think we have a bunch of stuff in writing that Steve's prepared -- is how does all that relate to our reference point? It remains unclear to me more or less where we are and where we think we'll be. So if we could just take a few minutes to do that, it'd really help clear me up.

CHAIRMAN COATES: Okay. Well, as you know, Amendment 9 has been submitted, and that included the increase in the minimum size for winter flounder to 13 inches. Now, I did reference the two frameworks, and particularly Framework 27, the annual adjustment, and that has not yet been approved. That framework will be acted on at the Council's next meeting. There'll be a Groundfish Committee meeting before that, and there'll be an Advisory Committee meeting prior to that. I think the dates are the 25th of January for the advisors, 26th for the committee, and then the Council was to devote a day -- I think it's the second day, yes -- to make a decision on Framework 26 and select one of those three mesh options or whatever for inclusion in that amendment based on the advice they received from the advisors and the committee.

MR. COLVIN: So the effect of Framework 26 would be?

CHAIRMAN COATES: Seven. The annual adjustment. Twenty-six is the one that went out to deal with the Gulf of Maine cod situation.

MR. GEORGE D. LAPOINTE: Between now and

May.

CHAIRMAN COATES: And that closes additional areas in the Gulf of Maine, significant cod areas within this fishing year, February, March and April. That framework has gone out as well. And the major bearing with that on winter flounder would be that there is some overlap between winter flounder and cod spawning. So these significant closure areas will probably have a measure of protection for winter flounder in conjunction with the actions that the states have already taken, I believe. Did Maine close waters to fishing for groundfish or just cod?

MR. LAPOINTE: Codfish, but I don't know that. Pardon my new Commissioner ignorance, Mr. Chairman.

CHAIRMAN COATES: But anyway, that framework, I think we can, in terms of its implications to Southern New England, other than potential misplacement issues and things like that --

MR. COLVIN: This is how far you've gotten me now. I think I got the numbers straight: 9, 26 and 27. That's about as much as I have straight. But let me ask a couple more questions.

CHAIRMAN COATES: Amendment 9 and two frameworks, Framework 26 and 27; 26, the Gulf of Maine framework, 27, the annual adjustment framework which includes in it the mesh options that I described before.

MR. COLVIN: And the effect of those is that once the New England Council selects one of those mesh options, the intent would be that it would become in effect an addendum to Amendment 9?

CHAIRMAN COATES: It becomes an addendum. It's part of this, and it would be effective May 1, 1999, this coming May.

MR. COLVIN: And I heard you say the options before, but I guess I understood that the most that would happen under those options would be an increase of the square mesh by a half an inch for all federal permit holders.

CHAIRMAN COATES: That's correct.

MR. COLVIN: And so what we would have in place if the Secretary approves all this in the EEZ that's different with respect to winter flounder in 1999 than it was in 1998 is that the size limit goes up by one inch for all federal permit holders, and the square mesh goes up by half an inch for all federal permit holders, and that's it.

CHAIRMAN COATES: That would be if the mesh size measure was implemented throughout its range. There are options that --

MR. COLVIN: That's right.

CHAIRMAN COATES: That's correct.

MR. COLVIN: Okay. Thank you. Now, at some

point I'm hoping that Steve or somebody will tell us what all that means biologically with respect to our reference points.

CHAIRMAN COATES: Do you want to do it now? Would that be appropriate? Everybody want to hear?

MR. CORREIA: Okay. There's two separate papers. One was handed out, was faxed to you last week, where I tried to summarize what the effect of the mesh size would be, mesh increase that they were talking about for the plan. And basically, Henry Millikin, who now works for NMFS but worked for the Division, did some mesh selectivity studies, looking at what the effect of changing from a five-and-a-half-inch diamond to a six-inch diamond or the change from the six-inch square to six-and-a-half-inch square. That paper was handed out today. I'm sorry. I only finished it last Friday. On the front, it should say the Commonwealth of Massachusetts letterhead, and it starts off, "Massachusetts Division of Marine Fisheries." That first part is the paper that Henry Millikin did to try and estimate what the mesh selection did.

If you look at it, his conclusions are quite simple. The 12-inch is close to the L50 for the five-and-a-half-inch diamond or the six-inch square, and the 13-inch size limit is more appropriate for the six-inch diamond or the six-and-a-half-inch square. So what will happen is, if you increase the size limit to 13 inches and you allow the continuation of six-inch square, you would increase discards.

Henry also used some growth information to estimate the number of months it would take to go from the L50, the length at 50% selection at the five-and-a-half-inch diamond to the six-inch diamond or the six-inch square to the six-and-a-half-inch square. Given the growth of winter flounder, this would take approximately six to seven months to grow to the five-and-a-half-inch diamond, the L50 for the five-and-a-half-inch diamond to the six-inch diamond. So that's how long it would take for that group of fish to move from what's roughly a little bit smaller than a 12-inch size to what's a little bit less than a 13-inch size. He also estimated that again it would take about seven to nine months to grow from the L50 of a six-inch square to an L50 of a six-inch diamond. He did this using a variety of mesh selectivity data.

The second part that I did -- if you look on this same paper, about two pages back, you'll see another sheet that starts, "To the Winter Flounder Management Board," and it's dated January 8th, 1999. I'll let you flip to that for a second. This was an analysis that I did on Friday, hasn't been reviewed by the Technical Committee. It was reviewed by members of the project

I work with. I took the length frequency, commercial length frequency for 1997 and tried to estimate what the effect would have been had the size limit of 13 inches been in place instead of 12 inches. And so as I drew the line -- there's a figure on the fourth page that looks like this.

This top graph is the length frequency of commercial landings, and what it is -- I ran into one little difficulty because the Center's length frequency is in the metric system and 12-inch doesn't line up exactly on a centimeter. So I ran the analysis using what would happen if I had the catch go from 30 centimeters to 33, the 13-inch equivalent, and also if it would go from the 31 centimeters to the 33.

If you look at Table 1, basically there are roughly six million fish that were greater than or equal to 30 centimeters and about a little more than four million fish greater than 33. So you'd lose about 1.5 million fish, which is about a 25% loss. These fish weigh a different amount. So I also calculated what the percent loss in yield would be. And going from 30 to 33, just that group, is about 17% of the yield. I did the same thing using that 31 centimeters to 33, and you get numbers which are about 22% reduction in the numbers of fish and about a 14% loss in yield.

However, those fish are still within the system. They're going to experience natural mortality, and they're going to increase in weight as they grow. So what I did is I took the number of fish that are in that length interval, and I knew it would take six months for the fish to grow from the 12-inch size to the 13-inch size. So I applied the natural mortality that would occur in that six-month period, and I get the number of survivors that you'd expect to be able to catch at 33.

The fish also grow in weight, so there'd be an additional growth in weight. And if you look at Table 3, you can follow the numbers. Again, you have about 1.5 million fish in that length interval. Six months later, about 140,000 of them will die from natural mortality, and you'll have 1.3 million fish, which is a loss of about 9.5% in that interval.

MR. POPE: L50 relates to, like, escapement, correct?

MR. CORREIA: The M relates to natural mortality. So we have an M of .2 during the year, and it's an instantaneous rate, and we apply that for a six-month period.

And if you look at it, the amount of weight in that interval was about 573,000 kilograms. Six months later, despite the loss in numbers, that weight increases up to 612,000 kilograms, which is an increase of about seven percent. If you look at the whole yield over that year for the commercial side, then that gives you an increase of about 1.1%. You'd also get an increase in

the spawning stock biomass because of these fish moving up.

So overall, the conclusion is that you get a minimal gain in yield by moving up to the 12 inches with the appropriate mesh.

In the paper that I sent to you, we had run some yield-per-recruit analysis. We did a very simple one where we assumed the knife-edge recruitment at age four. So it means no fish under age four would be caught. And it's unrealistic. We have recreational catches, we have recreational size limits that range from 10 to 12 inches, we have discard. But just to see what effect it would have on the F40 reference point as a way of bounding how much the target would change.

And when we did that, I came up with an F40 target, I think, which goes up to about .28. So if you've caught nothing but age four fish and older and that's all, that would tell you that even with this increase, you will not achieve your target. In other words, increasing the size of fish is not going to bring the target up to the F40, the current F. Okay? So you'd have a target of .28 which is bounding the problem, and you'd have a projected F of .39.

And then I also looked at what effect that had on the yield per recruit, and what happens is you get about a 3% gain in yield per recruit by moving to the older fish with that yield per recruit analysis.

MR. POPE: L50 again is -- just to get it straight in my mind, that's the 50% escapement mark?

MR. CORREIA: Yes.

CHAIRMAN COATES: Any other questions for Steve? Bud.

MR. BROWN: A question here on the discards, those fish, those six- to 12-inch fish and the discard in your last graph. Did you put any kind of -- those numbers looked to be -- I understand they are biomass, but the numbers looked to me to be pretty much equivalent to the recreational landings or maybe even a few more numbers in those smaller age classes. Do you have a mortality rate on those discards?

MR. CORREIA: The mortality rate in the assessment would come out as a fraction of what the fully recruited F would be. Now, we don't have like, say, an F for commercial landings or an F for commercial discards or F for recreational landings. But these discards in the less than 12-inch portion of the recreational catch form what is the partial recruitment vector.

And one of the things that's kind of interesting is that despite increases in the minimum size from 11 inches to 12 inches and some increases in the mesh size, if you look at the document that was faxed to you, on Table 1 you can see that there was really no change in the partial recruitment vector from 1993 through

1997. And if you go back in the VPA, it doesn't appear that there's been any change to the partial recruitment since 1986.

CHAIRMAN COATES: Other questions on that analysis? Yes, Jerry.

MR. CARVAHLO: If this scenario is exactly correct, in order for the management plan to work successfully, industry's going to have to be convinced that all these scenarios and these estimations and the conclusions, that first of all they're going to have to understand them, and they're going to have to understand and want to believe that taking or making this sacrifice, these changes, which are expensive to them, that in effect will actually make them more successful. I think it's extremely important that the information be put in such a format so that the common man that's out there fishing understands it, and that he believes that it's in everyone's best interests as well as his own. Because most fellows now are pretty well convinced that they're getting the raw end of the stick, so to speak. And my job today is to go back also to explain to them why it's in their best interest to consider supporting these changes.

MR. CORREIA: Yes, I agree. I think that we should try and make these as understandable as possible. Unfortunately, we're in a transition zone, which is really going to be -- I mean, it was bad enough before. It was bad enough when you had an F40 and partial recruitment, and you're trying to explain to people how this all works. And now, it's like we came up with a new pitch. Now we've got the sinker besides the curve and the fast ball, and you're going to have to learn it. And we can try to do the best we can with that.

The one point that I would note in terms of trying to see whether it's worth it or not, and that is, if you look at where the stock was when this plan started, and you were at a low point, and there were sacrifices made, and you could see that the stock is recovering. And in fact, if you look at a lot of people in Southern New England, they're all targeting winter flounder. It's not even part of a multi-species. Some of the offshore boats are actually going to target these species. So that's the only measure that I have in terms of telling you whether or not it's worth or not is whether or not those yields are going to go up, and you'll increase not only your catches but the economic yield. I think we've shown that you've had some rebuilding to the stock, and we still have a ways to go. And I don't know what else we can do to convince people of this.

CHAIRMAN COATES: I would note, too, there is another benefit to this, and it's not an easy one to analyze either, and that would be the increased fecundity by raising the minimum size. And, you

know, I don't know if you've had a chance or the Technical Committee's had a chance to even begin to consider how that might be evaluated. I don't think there's recent fecundity data on size, you know, different size fish. Probably older literature. But there's no question that by adjusting their size limit, there would be an increase in the amount of overall productivity of the stock.

MR. CORREIA: Yes. And it's not only that you're increasing the SSB or the egg production, but you're also, by delaying the mortality, you're increasing the probability that a fish will spawn two times, three times. There's some evidence in the literature that first-time spawners aren't as successful as second-time spawners. And so the metric of SSB may even be off a little bit, because when you get to very low stock sizes, a larger portion of the SSB may not be contributing to successful recruitment.

DR. SMITH: If I may, Mr. Chairman, to that point, I don't have a figure, but there is a relationship between recruitment and spawning stock biomass size for this Southern New England winter flounder stock. And so that's another benefit. By increasing the SSB, we run a higher probability of getting good recruitment down the road.

CHAIRMAN COATES: Thank you. Bill.

MR. WILLIAM ADLER: Yes. I just wanted to ask -- I know that there's been a problem mentioned by the scientists that the fish are there, some of the fish are there, but they're not recruiting or they're not doing the egg thing, and they don't know why particularly, for instance, like this cod up here. And I'm wondering if flounder might be in the same boat where, yes, you can have more, but they're not going to lay more eggs because we don't know why they're not laying eggs, but they're not laying eggs. And do you have any feeling for that while I've got you here?

MR. CORREIA: Well, we know for winter flounder there's some strong environmental components to it. We had some estimates of spawning stock biomass, and what happens is you're on one portion of the curve, and you get a large increase in recruitment for increases in stock biomass, and then when you start to approach MSY, BMSY, then what happens is you're not really getting that much more recruitment. In fact, what you're doing is you're harvesting the surplus.

Now, for say, Gulf of Maine cod, they've actually seen a decline in the survival ratios between recruitment and SSB, which is indicating that the survivorship made to two-year-old recruit has declined. We haven't examined that in winter flounder. But the recruitment, unlike in most stocks, appears to be improving the last three years, whereas in the cod stocks, the recruitment each year in the Gulf of Maine

is half of what it was the previous year.

So I don't think you get the same kind of mechanism that's what's happening with the Gulf of Maine cod now. There's no indication that's happening for Southern New England winter flounder.

MR. ADLER: All right. So in other words, you're saying that basically the flounder haven't been susceptible to that problem that has plagued the cod apparently, that actually they are improving. If you give them a chance, they are putting out more eggs?

MR. CORREIA: (Away from microphone) The recruitment is improving, the spawning stock biomass is improving. We haven't reached recruitment levels that we've seen historically. But I would say that the recruitment levels -- (On microphone) The recruitment has been increasing for this stock, which we haven't seen for the Gulf of Maine cod stock, so --

DR. SMITH: Steve, the figure that displays this is up on the board. It would be Figure A2, and you can see the recent recruitment has been improved relative to the low in '91, and that the spawning stock biomass is coming up fairly quickly. (Inaudible comment from the floor.)

DR. SMITH: We don't have an assessment for Gulf of Maine.

MR. ADLER: That's one of the ones I'm concerned about, because it seems that the cod are in trouble up there, and we've had winter flounder closures in Mass. Bay for a while, and nothing seems to be getting any better. And environmentally I'm concerned about several points up there, pollution things. But anyway, go on.

MR. CORREIA: Okay. Again, we don't have an assessment for the Gulf of Maine stock, but we do have the catch at age from the Massachusetts survey, and what that has shown is that the age one and two flounder have increased to record high numbers since '94. Now, whether this is improved recruitment or whether this is increased survivability because of the elimination of a lot of the small-mesh fisheries, we don't know, but we've seen more younger flounder in recent years in the Mass. survey than we have throughout the whole time series. So that bodes well. What we don't see, we don't see an increase in the older fish, which indicates that the mortality rate is still high.

CHAIRMAN COATES: Harry.

MR. HARRY MEARS: I have two questions for Steve. The first is, in the first paragraph of this analysis, it indicates that the Mass. Division of Marine Fisheries was asked to do this analysis. Was this requested concurrent with the drafting of Amendment 9? That was one question. And the second one is, is it currently under review by other members of the Technical Committee?

MR. CORREIA: The paper that you're referring to was something that Henry Milliken submitted for the Council to make their decision. Since I referred to it, I decided it would be useful if the Board members had that piece of paper in front of them. This paper, the Henry Milliken paper, the one that I wrote on the effects of the 13-inch limit and the memo that I wrote to Phil Coates were not reviewed by the Technical Committee. The Technical Committee spent most of their time in the fall trying to prepare for the assessment. And because of the time frame of when we could get these things done, there was no time for it to be reviewed.

CHAIRMAN COATES: Go ahead, Harry.

MR. MEARS: Just one follow-up comment on that. The notice of availability for Amendment 9 was filed on January 5th. There'll be a 60-day, I believe 60-day comment period, and it's certainly appropriate during this time in commenting on the various management measures such as the analysis for which you provided, especially if it's done through, you know, a total review by the Technical Committee.

CHAIRMAN COATES: John.

MR. NELSON: Steve, on your memo to Phil, January 11th -- oh, I'm sorry. The date for the memo was December 23rd. After Table 1, you've got a couple of paragraphs, but one of the things that strikes me is it says the increase to 13 inch -- and I'm paraphrasing this, so if I've got it wrong, you know, correct me -- but increasing to 13 inches as well as increasing the minimum mesh size does not achieve F40. Now, we've heard there's other factors in place here that seem to be positive, although I'm not sure we can pinpoint exactly which ones they are. What else would you recommend?

MR. CORREIA: I guess, particularly for this Board, the only recommendation that I can think of is either to have a quota or a trip limit throughout the area, which would be a direct control on the stock, on the catches, direct output control. You're not going to make it with any reasonable increases in length and mesh sizes to achieve that target.

CHAIRMAN COATES: Yes, Bob.

MR. BOB MORRIS: In that same document, I guess it would be just above Table 1 there, and it says that you believe that the size increase will not have an effect, but you also say that the effect of recreational fishery will also tend to maintain mortality on younger fish. How much of a percent are you talking about -- do you have any idea?

MR. CORREIA: I don't have the percentages off the top of my head, but for this stock, the commercial catch dominates the catches, and I think the recreational catch is something like 14 to 20%, and the

commercial catch is around, you know, somewhere like 75 to 80%. That was brought up because this was focusing on the commercial, and you're looking at the partial recruitment, and you have other components, the discard, small-mesh fisheries, the recreational catch with smaller length limits than the commercial, plus you also have the rec. discard.

MR. MORRIS: I was curious about this being put into a number, because you've got 10-inch fish in New Jersey, 11-inch in Delaware, and if it was all 12 inches -- I'm sure maybe this is not off the top of your head, but I'm just curious what percent that could help us out on if it was all right straight across the board 12 inches on everything?

MR. CORREIA: Well again, the analysis that I did was I went even beyond that. With that knife-edge recruitment at age four, that's assuming that there were no catches of fish from any component under age four. And that brought the target F up to around .28. And projected 1998 F is .39. So even if you could eliminate all the discards and bring everyone up to what in essence would be like a 13-inch knife-edge fishing, so no fish were taken less than that, you still wouldn't achieve the target, the F40.

CHAIRMAN COATES: Okay. I've got Gil and then Bruce.

MR. POPE: One of the points was -- I'm not sure about the other size limits, but one thing that bothers me is that when this process was started with ASMFC, each state basically had the flexibility to be at its own size limits. If it was more appropriate then in the southern regions, they had different size limits, and in the northern regions, they had different size limits. And, as David pointed out, it would be nice to have some kind of standardization here. I don't know if that would be appropriate for all areas. I know that I'm not sure a 12-inch size limit or a 13-inch size limit in Southern New England is as appropriate as maybe a 13-inch size limit in Upper Massachusetts or Maine or Gulf of Maine area or Georges Bank.

But what I'm just saying is that if we're going to try and formulate more of a coherent plan, then we're going to have to have a little bit more standardization of the plan than what we have now. Like with striped bass, we have a great bit of flexibility. But with this Flounder Plan, if I'm reading this right, it's going to be across the board 28%, across the board 49%, across the board solution to a problem that basically has a lot of different things going on inside of it, which basically tends to put someone, like in the case of Rhode Island where we had a total closure of our recreational inshore fisheries from '91 to '96, that's going to put us even more so behind the eight ball because nothing from nothing leaves nothing.

I've said it before, but if we're going to start with a -- if we're going to have standardization and then have the plan, then I'm all for it, but I don't like just having you say, well, we have to come up with a reduction from this number. Because it puts a lot of other states unnecessarily behind the eight ball that have already gone ahead and implemented this. That was one of the things -- I don't know if we're at Number 6 yet, but that was one of my points that I wanted to make on that, that 12 and, you know, 13 inches may not be appropriate for Southern New England as 12 inches may not be appropriate for some of the other southern states.

MR. CORREIA: I guess to that point, I guess you'd have to say what is the measure of appropriateness?

MR. POPE: Exactly.

MR. CORREIA: And if we had evidence that by increasing to a 13-inch size, that you were going to lose yield or some other metric, then I would agree with you. But the information shows that you gain by improving the age at entry for this stock.

Now, the second issue is when this plan first started, the states came up with estimates of what they thought their partial recruitment would be, given a certain set of circumstances, mesh size, minimum size, percentages of recreational catch and stuff like that, and tried to come up with an estimate of F. Both of those were very "squishy". Because of changes to the data base, it is impossible for the Technical Committee to measure the effects of those regulations individually state by state.

So, for instance, I'll just throw the example of New York out: We have no fishing mortality rate that's unique to New York State waters. We don't know what the partial recruitment is for that stock that moves in and out of New York waters. We could take a guess, which we've done, that says, well, if you change the size and change the mesh, we think this is what the partial recruitment would be. We have no measure of that. Not only that, but we have no measure what the F is.

And we throw the caveat out that moving from selectivity to partial recruitment is a very difficult thing to do. And I think the best example of that is to look at the changes in the partial recruitment for this stock since the assessment started in 1980. What you see is, from 1980 to 1986, you see a higher fishing mortality on age one and age two. In 1987, you have an increase to an 11-inch fish and I believe a five-and-a-half-inch diamond mesh. And you see a change in the partial recruitment. In 1993, you see an increase in some areas to six-inch diamond, six-and-a-half-inch square. You see a five percent bycatch rule go in place. You

see individual states create recreational size limits where there were none. You see commercial limits go up to 12 inches.

And you say what effect did this have on partial recruitment? And you say we don't see an effect on that, that the partial recruitment, in essence, hasn't really changed since 1987.

The projected reference points. If you were to say I expect this partial recruitment and this is what the expected reference point, F40 is, we would have been wrong, because we didn't get the improvement in the fishery that was projected by analysis of mesh minimum size. That's the danger of the approach of state by state and why we couldn't do it and why we ended up going to stock-wide assessment.

CHAIRMAN COATES: Gordon. Oh, I had Bruce next. Go ahead Bruce, and then Gordon, and then Ernie.

DISCUSSION OF F40 GOAL

MR. FREEMAN: I just want to review events here, because I think there's a lot of issues that we're discussing. relative to the Commission's standpoint, we've had a plan in place. States have taken various actions, as Steve has indicated. And some of these have been quite severe, I guess, as Gil and others have alluded to.

We as a Board had asked New England to do things differently. They've decided to essentially put in place the larger minimum size and the mesh. And as I understand this, if in fact that were to occur, we would not reach the goals of the existing plan. And, just looking at some of the numbers I jotted down quickly, to reach our F40, we'd need a fishing mortality of 0.2. We're at almost 0.4, which requires a 50% reduction.

The question I would have, first of all, is, is the F40 which was picked somewhat arbitrarily a reasonable goal or isn't it? It's going to be very difficult to reach. And if in fact we agree with all what's being said -- although I certainly don't agree with it -- we still would have to do something beyond mesh size to reach our target. So there's a number of issues here that supersede some of the discussion we had. I'm trying to come up with what we should be looking at so far as the plan is concerned. Do we need to go back and change our reference, or at least our targets for a recovered fishery? There seem to be two different philosophies here, and they are different.

I also -- and perhaps we could discuss that very briefly, because I think it's quite important, and then I have some other comments relative to the memo, Steve's memo of December 23rd relative to this where, if in fact these changes do occur, we're going to change

effort from the Gulf of Maine to Southern New England. And the question is, what are we going to accomplish? We're simply just pushing a problem from one geographical area to another. I think we need to find out where we're heading, where the goals should be, whether we need to change the references, and whether in fact we have those or will meet those if in fact we adopt the New England plan, because those issues are not clear at all in my mind.

CHAIRMAN COATES: Steve, did you want to respond to some of those?

MR. CORREIA: Yes, I will. Okay. I would maintain that the F40 is still an appropriate rebuilding F. What would happen is, if you look at this table, on that first line where it says 1999 scenario, .20, you can see that is the F40, and you can see that biomass would be 23,000 metric tons. The landings would be a little less, would be about 2.7. But in the year 2000, the biomass would increase to almost 28,000 metric tons.

If you look at the five-year building, you would see that the target F was a little bit above that .2, and if you look in the year 2000, you see you don't get as much biomass. So the stock is not going to rebuild as fast under the Council plan.

Now, the difference with ASMFC is we had the F40 as a rebuilding target, as a rebuilding rate, but we never specified what the biomass would be that would define when you were rebuilt and what the fishing mortality rate would be once you rebuilt. That, in essence, is the difference between the two plans. If you maintain the F40, what's going to happen is you will lose a little bit of yield up front, the stock is going to rebuild faster, and you're going to achieve MSY faster.

At that point, you could say -- let's say we agree that this is the MSY. Then we would say the stock is rebuilt, and we would calculate some fishing mortality rate that would be appropriate for it. If you use the Council's, what it's saying is starting here, what F do you need to get you to that biomass, which is now the legal definition of overfishing? It's the biomass component and F component.

It's two slightly different approaches, and how fast you want to get there. F40 is going to get you there faster and there's going to be more room for error with the F40. So if recruitment's a little bit poorer, you're going to get there a little bit sooner. That's the only difference between them.

MR. FREEMAN: Well, if I may, relative to the statements that are made that if in fact we increase mesh size under the New England plan and minimum size, there are still going to have to be other things done in order to meet our target. In other words, the states alone cannot achieve this. The Council alone can't achieve this. This is supposed to be a joint plan,

and yet we seem to be diverging here.

In my mind, the Council plan, the New England Council plan does not achieve the targets we're looking for, and there has to be something else with that in order for that to occur, and I don't see that.

MR. CORREIA: That's correct, and that's the problem with having basically two different fishery management plans, two different sets of objectives, two different sets of timetables, and two different sets of jurisdictions. And that was raised to the Board, I believe, last June.

MR. FREEMAN: It was raised several times.

MR. CORREIA: So now we're at where the rubber hits the road, and you're at a point now where it makes a difference which plan you have and who does what.

CHAIRMAN COATES: I've got Gordon.

MR. COLVIN: Just a couple of points. One, you know, Bruce started to kind of state the record, and I think that's useful. It's important to recognize that, like a lot of ASMFC plans, when this one started off, we didn't know what we know now. We know a lot of things we know now, including how little we know.

But we did put something in effect that was designed to reduce fishing mortality incrementally over time. It was not an uncommon approach. We did it with lots of fishery management plans. And we gave states flexibility to figure out how to do it their own way that made sense for them, and we approved all of that. Nobody's out of compliance here. All right. Each and every state has regulations in place that were judged by this Board to be within the framework of the information we had when we made the judgment acceptable in terms of reaching F30.

Somebody's out of compliance, Steve?

MR. CORREIA: No, not out of compliance, but I think there's a big difference between saying here are the targets, here are the things that we think are going to achieve the target, and then measuring to see whether those things were effective. It's that latter portion that we can't do. So, for instance, if Massachusetts put in a 12-inch size limit and six-inch diamond, and closed off the spawning areas, we still do not know whether or not we have achieved what would be the F target that we thought would occur under those conditions, because we don't know what the F is --

MR. COLVIN: That's right. We don't know whether to give Massachusetts credit for the things they did, or whether what New York did by raising our size limit all the way to 11 inches is what did it. We don't know.

MR. CORREIA: That's right.

MR. COLVIN: You know, as preposterous as that might sound -- yes, I know, I've got to wake you up,

Phil. The point is, it doesn't matter. That's the point I'm trying to make. The point is, nobody's out of compliance. Every state adopted regulations in good faith. They were evaluated by the Board in good faith.

And frankly, somewhat to the surprise of many of us, including some of the Technical Committee representatives, including New York's, through 1998 collectively we appear to have achieved the fishing mortality rate reduction that we intended to. Is it a surprise that we're not going to achieve it or we're projected not to achieve it for 1999?

Now to me, I was prepared for this, because of what we knew about the fact that the most recent recruitment hadn't been so good, and some of the improvement we had seen was a result of the '92 year class and some things that have been happening. And without new recruitment, we had to expect that maybe things wouldn't stay quite as good as we'd hoped. So we have a problem. I wish we had known about this sooner, but that's a function of when assessments get done. And we have that difficulty and that frustration in many of our management programs, we tend to find things out at inconvenient times. But now we have to deal with it.

I would say this: One of the ramifications of what I'm saying to you is that I don't think it's going to be very fruitful, and I'm not going to take it very kindly if the nature of our discussions is such that you states who didn't raise your size limits to 13 inches have more to do to get up to where the rest of us are.

Huh-uh. That's not how this management program worked. The way it worked is we all came to the table with an array of measures to reduce exploitation, to move us to F25 and F30 as best as we thought it could, and we're all technically on the same sheet of music today. We're all technically on -- maybe not scientifically, but from a management perspective, from the perspective of what we agreed to amongst each other, we're all on a level playing field today. And where we take the next step to, we go together.

Now, with respect to this difficulty involving the federal management plan, I'm inclined to agree with what Bruce suggested, which is that we've got to somehow rectify this. It doesn't make any sense to have two different reference points, two different sets of biological objectives for management of the stock.

The difficulty I'm having is that it seems like this Board who started this management program is in a position of not having a heck of a lot of ability to influence what the New England Council is doing. This Board is on record as opposing the primary management action the New England Council has recommended to the Secretary. Number 1.

Number 2. Notwithstanding what I've heard here

today -- and I know there's support for this -- (a) we learned it "ain't" going to get us there; and (b) I'm still opposed to it, and I'm not alone.

So maybe we need to think about both these issues. How do we come together with the New England Council in a true partnership where we can have give and take with each other and arrive at a decision that we both like? We're not there yet, but I think we need to get there.

CHAIRMAN COATES: Thank you, Gordon. Ernie.

MR. ERNEST E. BECKWITH, JR.: Both Gordon and Bruce went down the path that I was going to take also. But I'll take somewhat of a different course. What really concerns me is that knowing where the majority of the harvest takes place, where the majority of the fishing mortality takes place, and looking at what the states have done over the past number of years, it'd be very difficult for me to accept going another 49%. Because it isn't going to work, and we know that most of the problem is elsewhere; it is not in state waters.

Another problem I have is that if we did in fact take this 49% reduction to get to F40, this is something we're looking at later this year, so we would probably get there relatively quickly. Now, if we look at the federal plan, someone quoted that it's a ten-year rebuilding schedule, I guess, from this point on, or if Amendment 9 passes, and I think that Steve also said -- he quoted it would require a 15% reduction over -- is it 15% now and then over ten years we'd rebuild to the MSY?

MR. CORREIA: My understanding of how that would work is that you would reduce -- if you went with the ten-year rebuilding plan, then you would reduce F15 % --

MR. BECKWITH: Now?

MR. CORREIA: -- and you would hold it there for ten years till the stock reached MSY. And if you had the five-year rebuilding plan -- I guess there's some issues in terms of whether it's a five-year or a ten-year -- then you'd have a 28% reduction in F, and you would hold that until you reached MSY, which would supposedly occur within five years.

MR. BECKWITH: Yes, that's what I heard, and I find that somewhat troublesome, too, because we had established a rebuilding period under the Commission plan, and now if we do go with the Council plan, or the Council has established a different rebuilding period, much, much longer than what we had planned to do for this species, I find it somewhat troublesome that we're looking perhaps for another ten years before we get this species rebuilt.

MR. CORREIA: I don't recall what the time frame was in terms of when we thought the stock was going

to rebuild, because I don't think we ever defined in that plan when it was rebuilt. If you look at the plan, we said go to F25 in 1995, and go to F30 in 1997, and go to F40 in 1999. And the committee was going to work. They'd say, well, once we achieve F40, how do you define when the stock is rebuilt? And that portion of the plan wasn't done. At least, that's my recollection of this plan, that there was no timetable involved to rebuild.

MR. BECKWITH: Well, just to restate some of the points that some of the people made. I think we have to take a hard look at the reference point, the F40 reference point if we do decide to stay with that kind of a reference point. And if we do decide to go with the rebuilding reference points and plan for its being utilized in federal waters, we have to take a very hard look at that also, because I'm somewhat troubled that it's going to take that long.

And also, it just wouldn't happen without some other help from the states. So I don't think any of the states have shouldered a very large portion of this burden so far, and I think something more has to be done in federal waters.

MR. CORREIA: I guess to the point in terms of the Technical Committee looking at rebuilding, it's very likely that the best information that we have in terms of how to define when this stock is rebuilt is the MSY calculations that were done by the overfishing definitions. It's the only set that we have that has the biomass component to it and a definition of the biomass that gives you MSY. So I think if you're looking for the Technical Committee to try and come up with something different, it's very likely, given the tools available and the data, that they're going to come up with something that's very close to what's here.

And in fact, portions of the Technical Committee were at the assessment where the overfishing definition was updated, and if I recall, I believe that the Technical Committee's advice was that we devise or we go to an overfishing definition that does have a biomass component to it.

CHAIRMAN COATES: David.

MR. BORDEN: Yes. A couple of points, Mr. Chairman. What I basically see is kind of a whole series of problems here. One is we've got a process issue and an equity issue. On the process side, the reality is that 85% of the landings are coming from federal waters and in fact we cannot -- we being the Commission and the states -- cannot rebuild this resource without some type of equivalent action in federal waters.

The equity issue is that if our standard relates to that and if our overfishing standard is in fact more stringent than the Council's standard, then I would

seriously question whether or not we ever meet our goal. And that being the case, I would just repeat what I said before. I think that an appropriate strategy here is to have the Council (Commission - ed.) modify its reference points or overfishing definition, whichever you will, or both, to align them with the definition that the New England Council has. And I have some reservations which I'll state in a second.

I mean, the main reason I say that is because recruitment's increasing in Southern New England. The spawning stock biomass is increasing, and the biomass is increasing, all positive signs. If you look at the chart that Steve put up, there had been a significant improvement since 1994. And my own view is that the Commission can take a bow because our regulations and plans were in place, and I think they were a leading factor, that they have contributed to the improvements.

That being said, however, I still think we have this problem of getting our standards in sync with the Feds. We just cannot be out of sync with the New England Council.

The other complication I see here is that, as rosy as that picture is in terms of rebuilding the stock in Southern New England, there are state issues in particular, and I'll use Rhode Island as an example, where the population has virtually collapsed in Narragansett Bay. And what I view is if we adopt this type of strategy to standardize our regulations, some of the states, a number of the states sitting around this table are going to have to be more pro-active and in fact adopt additional restrictions for state waters in order to try to address those nearshore problems.

So I'm not suggesting this as a strategy to minimize the actions by the states, just somehow we've got to get on the same path as the Council. One reservation I have, though, relates to this issue of ten-year rebuilding strategy, and I think that if we adopt this type of strategy, I think that should be a subject for some type of joint meeting between this Board and the New England Council as to whether or not ten years is adequate.

As Phil certainly knows, one of my reservations about the current Council plan is it has target TACs. It doesn't have an absolute TAC for winter flounder. So there really isn't anything to stop a redirection of effort into winter flounder in response to some other regulatory action and, in fact, have mortality go up significantly. And that's a reservation, as Phil knows I've had, since we adopted Amendment 5. But it doesn't seem to go away. But my suggestion is that we pass a motion to standardize the overfishing and reference terms, and I'd be happy to make that if you'd like that.

CHAIRMAN COATES: I'm open to that any time

since it's almost --

MR. BORDEN: I would **move that the Board request the staff to prepare an amendment to the Commission's Winter Flounder FMP. The purpose of the amendment will be to adjust the Commission's overfishing definition and reference points to comport with the overfishing definition currently utilized by the New England Council.**

CHAIRMAN COATES: Okay. We'll give it a chance to get up on the board. Gordon?

MR. COLVIN: I would like to second the motion, but I have a question first.

CHAIRMAN COATES: Okay. Oh, a question before the second? Okay. Anybody want to second it anyway? Go ahead, Gordon.

MR. COLVIN: I'll have another question after. David, I think the intent of the motion is for us to work jointly with the New England Council to attempt to jointly reach agreement on an appropriate overfishing definition and rebuilding plan, and not to simply accept what the New England Council has already incorporated into Amendment 9, is that correct?

MR. BORDEN: Actually, I anticipated doing the former, but I think your suggestion may be better, and it would be totally acceptable with me when Jack writes the motion to write it in that format.

CHAIRMAN COATES: Steve.

MR. CORREIA: Yes. I just want to make the point where the technical people wear multi-hats, and so it's not likely, given that you're using the same information and you have the same set of tools available to you, that you're going to come up with stuff that's slightly different than this that's also going to be constrained by the SFA requirements that say you have to rebuild within ten years, and you have to have, you know, all these other things that you're aware of. So, I guess from my point of view, it may be a lot simpler, rather than get a bunch of people together again to come up with the same answer, to say, listen, same data, same tools, lot of the same people, you're going to come up with a very similar result.

CHAIRMAN COATES: David and then George.

MR. BORDEN: To Steve's point, I am actually sympathetic to what he said, but where I differ with him is on the issue of the rebuilding period. There's been a couple of speakers that have touched on the length of the rebuilding period. There isn't anything in the SFA that mandates that the rebuilding period will be ten years. We could adopt a shorter rebuilding period for the stock, and that will only come out of some type of negotiation with the Council. So the benefit of the strategy put forth by Mr. Colvin is that in fact we could negotiate with the Council, and we may

end up with an eight-year rebuilding period or a five-year rebuilding period.

MR. CORREIA: Yes. I guess my point is it's not a technical issue and that would be between the managers here and the managers on the federal level.

CHAIRMAN COATES: Go ahead, Terry, and then I'm going to get George, because he's very anxious.

DR. SMITH: Just on David's point. For this particular stock, David, there is both a five-year and a ten-year schedule, and we can get into all of that. But maybe more germane to this discussion, there are 14 such control rules associated with the Northeast Multi-Species FMP right now. I don't know that the Council has had an opportunity to sit down and think about the implications, because if one applies this particular one, say, and comes up with a determination for Southern New England winter flounder -- I intimated earlier that if you look at Georges Bank winter flounder, you get a different answer. If you look at Georges Bank cod or the other species we're looking at in the SARC, we get different answers.

One of the things that we've been talking about with the Council, because we are giving a presentation on the SARC at the next meeting, is the whole issue of control rules. Do we have to pick this F target schedule? Are we legally constrained to do that, or can we go up to F threshold? The target is a risk-adverse version of a threshold number. Do we have to -- this is an actual step schedule. It has a five-year horizon in here and then a ten-year horizon over here. What are the implications of that? What are the implications of how these all fit together? What are the policy implications?

And at least the discussion we've had with Paul Howard, I think he's anticipating a special session for the Council at its February meeting to discuss some of these issues. I think this will dovetail with what we're talking about with respect to this particular stock. But I think the Council, the New England Council needs to sit down and look at all of these control rules and begin to embrace what actually they're going to do.

CHAIRMAN COATES: George.

MR. LAPOINTE: Thank you, Mr. Chairman. I think Terry and Steve -- I mean, a lot of people have talked about the impacts of what happens in federal waters, because we do control so little of the winter flounder fishery in state waters. And I think Steve's point about this not being that much a science issue as opposed to a policy issue is a critical one. We have to come to grips -- and other people have talked about it -- we have to come to grips with the differences in management philosophy and history between the Council and the Commission plan to make this work.

And we may, in the course of this discussion, need to have some hard looks. I mean, we certainly have -- our F40 goal has been right now unattainable because if we close all state waters, we still wouldn't reach our target. And so we really need to have a cooperative discussion about where we go. And we need to look at in fact, if our target is unattainable, what we do next. I think that's a critical discussion we need right now.

MR. CORREIA: I guess my question is, is it possible for this body to enact landing limits? Because if that's the case, then you can do something about landings coming from the EEZ. I mean, it's going beyond what the -- I mean, the Council has a few other tools available to them which would be like effort, days at sea reduction or more area closures, which I don't think that they would be likely to choose.

But I think if you can enact a landings limit, then you can hit, you know, your F40 target or any other target you can get those things. And I'm not advocating maintaining two separate plans, but you do have, I think, within your jurisdiction, a method for controlling the mortality in the EEZ.

MR. LAPOINTE: We certainly can do that, and we've discussed that sort of thing in the past, but that's pretty -- I don't think the Council would view that as a cooperative management measure, and so we need to -- I mean, it's certainly in the mix, but the difficulty in doing that shouldn't be underplayed.

CHAIRMAN COATES: David, looking at that motion, would you be considerate of a possible change in the latter part there with regard to trying to tailor the Commission's definition to the current definition utilized by the Council in view of the fact that they are going to be discussing the idea of control rules? There's probably a little higher ground we could take here in terms of developing consistency in management objectives.

MR. BORDEN: What would you suggest, Mr. Chairman?

CHAIRMAN COATES: Well, I was just wondering if we could -- the purpose of the amendment would be to basically bring together the chief consistency with regard to the Council's and ASMFC's restructuring or rebuilding objectives and goals. So that way there's grounds for perhaps some backing off by both. Because, as Terry indicated, we're not absolutely tied to the current definition.

If I'm not mistaken, Amendment 9 contains provision that allows us to change all our overfishing definitions through framework, which is probably a more timely process than an ASMFC full amendment. Not that the Council's -- I mean, the Council's, I think, still going to look at this in the context of the overall multi-species mix, which we have to, but nevertheless I

think that gives us more flexibility in negotiating.

MR. BORDEN: There are a couple of ways we could do that. You could change it so it says, "comport with an overfishing definition utilized by the New England Council," and that would eliminate the --

CHAIRMAN COATES: It makes it simple.

MR. BORDEN: It makes it generic, and obviously it's going to be subject to some negotiation.

CHAIRMAN COATES: George.

MR. LAPOINTE: Should -- to address Gordon's concern -- should it say, "This amendment should be prepared with a jointly prepared overfishing definition"? I mean, isn't that what you were talking about?

MR. COLVIN: That would be preferable to me.

MR. LAPOINTE: I mean, to make it succeed, that's what we have to do.

CHAIRMAN COATES: All right. You want to change that then? Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Let's deal with this issue first.

MR. BORDEN: The purpose of the amendment will be to prepare a jointly agreed-to overfishing definition for the winter flounder.

MR. COLVIN: And rebuilding schedule data.

MR. BORDEN: Yes. And rebuilding schedule. Jointly prepared overfishing definition and rebuilding schedule for winter flounder.

CHAIRMAN COATES: All right. While they're getting finalized, go ahead, Gordon, and then Ernie.

MR. COLVIN: Second.

CHAIRMAN COATES: Seconded. Okay. Ernie.

MR. BECKWITH: The question I have -- maybe you can help me, Joe -- do the states have to have F40 in place July 1st, '99, is that correct?

CHAIRMAN COATES: Actually, that's true, but we can deal with that.

MR. BECKWITH: That was my point. I don't know how long this process will take, and in the meantime, the plan still says we have to have something in place by July. So how do we deal with that?

CHAIRMAN COATES: Jack's looking at us. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Well, Mr. Chairman, I don't want to make this more complicated, but this fishery management plan right now needs a lot more than this. This plan was written in 1992. You have to be a very good reader to even find the overfishing definition that's in there. It doesn't have a lot of things that we have in our modern fishery management plans like conservation equivalency and adaptive management.

I'm not sure that this fishery management plan

right now needs a quick and dirty adjustment to overfishing without doing a bunch of other things as well. So what this is leading to, sort of in response to Ernie's question is, I think this is a process that is going to take us some time, and the Board will have to come up with an interim alternative for what you expect the states to do while that process is taking place.

CHAIRMAN COATES: So you're talking about revising, preparing an amendment to revise the Commission's Winter Flounder Plan in the primary purpose of this amendment, something like that?

EXECUTIVE DIRECTOR DUNNIGAN: This is the kind of fishery I would think where you want --

CHAIRMAN COATES: I'm not trying to make suggestions. Far be it from me to have any influence on this Board.

EXECUTIVE DIRECTOR DUNNIGAN: It seems to me, Mr. Chairman, this is the kind of a fishery where the Board would want things like frame-working and adaptive management, and would like to have conservation equivalency and things like that. I mean, we could fix this plan up nicely now.

CHAIRMAN COATES: All right. Do we have language?

EXECUTIVE DIRECTOR DUNNIGAN: Do you want to add "primarily" in there, David?

MR. BORDEN: Mr. Chairman, let's change the word "the" in the second sentence to "one purpose of this amendment," or "a purpose of this amendment".

CHAIRMAN COATES: All right. Everybody comfortable with that? All right. Further comment? Harry.

MR. MEARS: Again, I'd just like to make the point that Amendment 9 which contains the scenario for the revised overfishing definition is just now going out for public comment. It's going to probably be at least 90 days before the public comment is in and that document becomes finalized.

The other comment I have is that this motion, there's probably been three other motions in the last four years we've made that are essentially identical. And it's a shame in a way that we can't get off dead center in solving a more productive way to work with the Council. I think it's unattainable if we have not achieved it yet. I'm not sure what the mechanism is to work jointly with the Council to come to this resolution.

CHAIRMAN COATES: Further comment on the motion? Are you ready for the vote?

Moved that the Board request the staff to begin the process of preparing an amendment to the Commission's Winter Flounder FMP. One purpose of this amendment would be to arrive at an

overfishing definition and rebuilding schedule jointly with the New England Fishery Management Council.

Motion by Borden seconded by Colvin. All right. We'll have to do this on a caucus vote. If you would, Joe, could you --

DR. DESFOSSE: Maine.

MAINE: Yes.

DR. DESFOSSE: New Hampshire.

NEW HAMPSHIRE: Yes.

DR. DESFOSSE: Massachusetts.

MASSACHUSETTS: Yes.

DR. DESFOSSE: Rhode Island.

RHODE ISLAND: Yes.

DR. DESFOSSE: Connecticut.

CONNECTICUT: Yes.

DR. DESFOSSE: New York.

NEW YORK: Yes.

DR. DESFOSSE: New Jersey.

NEW JERSEY: Yes.

DR. DESFOSSE: And Delaware is absent. The motion passes seven to none.

CHAIRMAN COATES: Very good.

MR. MEARS: Mr. Chairman, do not the federal representatives have a --

CHAIRMAN COATES: Yes, two federal representatives.

DR. DESFOSSE: I'm confused with the new procedures, and I'm sorry to eliminate you. NMFS, National Marine Fisheries Service.

MR. MEARS: Abstain.

DR. DESFOSSE: And Fish and Wildlife Service.

DR. JAIME GEIGER: Abstain.

CHAIRMAN COATES: All right. George.

MR. LAPOINTE: I think it's -- I don't know how to arrive at this because, as Harry says, we've been working at it for years. We have a situation where the states are supposed to submit plans for F40. We can't get there from here. In light of this, what do we do? I mean, my first thought would be to pass a motion to slip the clutch on this. I don't want to get then busted in the chops because Bud thinks I don't care about winter flounder any more.

And so, I mean, the Board is still in the same dilemma we've been in of niggling around the edges and not being able to achieve F40. That's a statement more than a suggestion, because I don't have a good suggestion right now.

CHAIRMAN COATES: Well, my own personal feeling on this would be that in view of this action that's been taken right now that you don't have to continue to try to achieve F40, but it would be perhaps a good idea to -- we've had a review of F30

submissions previously? Have we done that?

MR. CORREIA: Well again, that was one of the issues that we ran into, because we initially had separate F30s for each state. We could not estimate whether each state achieved it. We went to this uniform assessment which said, yes, we achieved, in this one, F30. Now the projected F for 1998 says not only do you not achieve F30, but you do not achieve F25. It puts you right in the ball park for F25.

According to this, we're back to where we were in '92.

CHAIRMAN COATES: Gordon.

MR. COLVIN: We need to do something formal. The Board has adopted an addendum -- I think it's Addendum 1, isn't it, Joe? It's Addendum 2? -- that calls on us to submit our plans for achieving F40 by last August past.

CHAIRMAN COATES: We're a little overdue.

MR. COLVIN: And to implement them, I believe, by June 1st of 1999?

DR. DESFOSSE: May 1st.

MR. COLVIN: May 1st of 1999? Based on technical information that we had last summer that looked like that was going to be a 22% reduction, you know, many of us had started working on strategies for that reduction, engaging the public in dialogue over it. We certainly did in New York, in fact to the point where our legislature passed a bill extending our flounder authority that, in the language of the law that was enacted, memorialized the 22% reduction, which is a relatively unique problem for New York that we have to deal with.

We need to take some formal action with respect to either continuing with or replacing Addendum 2 with something, and we need to do it very quickly. I'm not sure what, but it does sound, from what Steve just said, that at a minimum we need to take some action proactively to assure that we don't slip below F30 or above F30, however you want to look at it.

And at the same time, I'm sensitive to what George said about slipping the clutch on this whole thing any further, but, as Harry just pointed out to us again, Amendment 9 is not in the bag. We still don't know here in the middle of January what the federal regulations will be.

And in absence of definite knowledge about what the federal regulations will be, it's very difficult at best for us to commit today, much less two or three months from now, to implementing something in May that will achieve F40, when we don't know what will be achieved in the EEZ. We can't do that; it's impossible.

CHAIRMAN COATES: You have your Framework 27 also, which is due to be implemented, and that will be -- well, I shouldn't say "will be," but in all likelihood that'll be approved. So there's going to be

some definitive actions taken by the Council.

CHAIRMAN COATES: But there are three options there, Mr. Chairman.

CHAIRMAN COATES: Yes, there are, one of which would have no bearing on the -- well, as I said, it may have a significant bearing on the Mid-Atlantic Southern New England area if everybody decides to leave New England and fish down there. Ernie, I want to keep this --

MR. BECKWITH: Yes. I've got a question for --

CHAIRMAN COATES: It is getting late, folks. We do want to move along. And I understand this is a very significant issue. In fact, I'm even wondering if we ought to break and come back. It's up to you. No. I'm getting some very vigorous nods of heads, so let's wrap this up. Go ahead, Ernie.

MR. BECKWITH: I've got a question for Joe or Jack. How do we maintain F30? Can we just do that by passing a motion saying the states shall maintain F30 until something happens, until this Commission/Council process is completed, or until some time definite in the future? Or will that require another addendum? How do we do it?

EXECUTIVE DIRECTOR DUNNIGAN: You know, there are four or five things going through my head right now, Ernie, and I'm reluctant to just throw them out in this kind of a forum without finding out a little bit more about how practical they are.

MR. BECKWITH: Phil, can I just follow up?

CHAIRMAN COATES: Go ahead.

MR. BECKWITH: Yes. We're going to have to take some action, so whether we can do that action, we're going to have to take it soon, because that May 1st date will creep right up on us awfully quickly.

CHAIRMAN COATES: Go ahead, Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Thank you, Mr. Chairman. It isn't really just the May 1st date that's the problem; it's the August 1st, 1998 date that has already been missed. And the question is, what is the Board going to do about that? If the answer is, well, nothing really today, and you're comfortable with that, I guess the only issue that raises is whether or not you're failing to follow through on a responsibility to the process, so that the process itself has credibility.

On the other hand, you've just passed a motion that indicates you're taking a new tack in the management program, and, you know, perhaps you could come up with a procedure that would suspend consideration of states' compliance with Addendum 1 as amended by Addendum 2, as long as the state maintained either its current set of regulations or maintained a program that met F30 pending approval of the new amendment.

And that's still sort of rough around the edges, and it might not be a good idea even if it isn't rough. But

that's the kind of thing that's beginning to take form in my mind right now.

CHAIRMAN COATES: David and then Gil, and then Bruce.

MR. BORDEN: Thank you, Mr. Chairman. Unless I misread the conversation here, I think it's a clear intent of probably everybody around the table that because of the situation with the New England Council, that there has to be some period of time here to negotiate with them, get the overfishing definition or standardize the overfishing definition.

That being said, the key ingredient that we don't want to lose track of is that we still want to maintain our current target, and we still want to maintain the requirements on the states to submit plans and meet those targets, and we don't want to do anything to jeopardize that. I don't know how you put that into a motion, the latter portion of it, and I think it's one of the reasons that Jack qualified his statement.

What we need is a fairly carefully crafted motion that does that, but somebody's going to have to sit down with all the addendums and management plan and prepare it. I'm not sure how you do that, but that's what we need right now.

CHAIRMAN COATES: Gil.

MR. POPE: Yes. I have to totally agree. I guess what happened was we bit more off than we could chew, I guess, and that we'll just have to go back and say that -- do the new findings and no matter what we do, it's not going to achieve the F40 targets, even if we wanted to.

And one of the last things that I remember Penny saying to me at one of the last Board meetings was that she didn't feel that very much was going to be happening in the way of achieving our targets until we got rid of some of those huge trips offshore. That's what she said to me. That's one of the last things I remember. I don't know if you guys concur. But that's one of the last things she said to me at one of the last Board meetings. There's nothing we can do about those trips other than have landing limits in our own state.

CHAIRMAN COATES: Bruce.

MR. FREEMAN: One of the -- I'm just looking at Addendum 2, and it indicates, as Jack has stated, that by August, the states must provide plans to the Technical Committee to achieve F40, and then it goes on to indicate, if approved by the Board, these plans shall be implemented. It's interesting, "if approved by the Board."

But I think, more importantly, this goes on, the addendum goes on to indicate that implementation of management measures in the EEZ comparable to those enacted by the states will be essential in order to

achieve effective management of inshore stocks. So we predicated reaching that F40 with the federal fishing to be comparable. And, as we're finding out, that's now not the case. And I think -- we're going to have to make a change. There has to be some agreement by both groups, and we move in a common direction, because what we've had to date is not going to do it.

The other comment I was making from the standpoint -- the states have taken the initiative here. We've asked the New England Council to move in that direction. For various reasons, they moved but somewhat not in the direction we asked. If in fact the states took just the opposite tack and essentially left the management of the flounder resource, of the winter flounder resource to the Council, the Council will never achieve its goal regardless of what it does except for perhaps closing down the fishery.

So either side has to take draconian measures and probably neither will reach the goal without the other. And it needs to be stressed. We're going around in a circle here.

CHAIRMAN COATES: George.

MR. LAPOINTE: Given what Bruce just read in the addendum, that in fact we can't achieve what we're trying to do without cooperative work from the Council, and given the fact we've raised the expectations about the last August expectations, and now the May expectations, does it make sense -- and Joe's already told me that we don't have a fully functioning PDT -- but to get together a PDT to look at that statement to see if in fact we can use that as the basis for not trying to achieve F40, which is unachievable until the amendment's done?

If it isn't, the PDT should craft then another addendum so that we in fact say we still have the same goals, but they aren't achievable right now, and without this amendment process, we can't reach them. And then I think as well, we need a statement about if we get a year and a half and nothing's happened, we need to have a big discussion about what to do as well. You know, just if in fact we use the normal evolution time of an amendment, about a year and a half, and we get near the end and we see we're no closer, we have to do something else. And I don't know what that is at this point either. Going to the Secretary as opposed to working with the Council, I'm not sure. But I think that's kind of a complete package to try to bust this off the dime right now.

CHAIRMAN COATES: It's ironic that either entity does have the authority or the control to probably deal with individually the needs of the resource, and that's through landing limits imposed by the states or through the -- if in fact this 85% in the EEZ, landings

in the EEZ still is applicable, then the Secretary could move to implement regulations in the states, because they're doing things that are preventing the achieving of the management targets. But, you know, I mean, that theoretically exists. I'm not saying it's a practical outcome. But both those alternatives exist. Maybe there's a blend of those that could take place. That'd be an interesting amendment. All right. So how do you want to -- Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Just for my own clarification, Mr. Chairman, is it the sense of the states who are members of the Board that what you would like to do is to proceed with the amendment and during the time of proceeding with the amendment, keep everybody at F30 but not expect states to move to F40?

CHAIRMAN COATES: Is that the sense? I see a lot of nods. Yes, I'd say that's a definite sense of the states at this point. So that's what we need, is a motion to that effect, if we can craft one in that fashion.

EXECUTIVE DIRECTOR DUNNIGAN: Mr. Chairman, just to follow up. You know, one way of doing that, the cleanest way of doing that would be to prepare an addendum, and I'm trying to keep you from having to do that, because I'm afraid it will detract energy from the process of getting on with it. So that's what's going through my mind now. And it may be that if that's what you really want to do, you know, staff will bring you back something in March that will do that for you.

CHAIRMAN COATES: George.

MR. LAPOINTE: That's essentially what I was talking about. And given the language Bruce read from Addendum 1, there may be language in there that allows us to do that without an addendum. But I think we need to formalize our conclusion in March so that in fact people don't think we're just dodging the issue.

CHAIRMAN COATES: Absolutely.

MR. LAPOINTE: I think we need to -- when we make a decision in March, we need to formalize that decision with the Council and the National Marine Fisheries Service as well, so they know what we're up to.

CHAIRMAN COATES: Steve.

MR. CORREIA: Yes. I guess to the point in terms of maintaining F30, if you look at what the projected F is in 1998, you still need a 25% reduction to get to the F30 level. So it's not as if you don't have to do anything because you're above it.

CHAIRMAN COATES: The issue seemed to be to embrace the New England Council's management actions in state waters. Everybody gets you there. Anyway, moving forward. I think we need to frame this if in fact that's -- in view of what Steve said, if

that's the desire of the Board at this time, maybe we need a motion for this, and that would be to basically ask the Technical Committee to come back with elements of an addendum that would allow the achievement of the F30 guidelines under some time line, or F30 objective. Because you've still got to do more. Go ahead, Ernie.

MR. BECKWITH: I think you raised an interesting issue. It was an oversight. I didn't realize we needed to reduce 30% just to reach F30. And I think what I would rather see us do when this motion is crafted or the addendum, or whatever we do, that the states maintain existing regulations rather than trying to maintain F30. I don't think we want to put more regulations in place while we're going through this process.

CHAIRMAN COATES: Bruce.

MR. FREEMAN: That's basically the point I was going to make as well.

CHAIRMAN COATES: Gentlemen? It's getting late. Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Is there consensus with what Ernie and Bruce have just said, or is everybody sitting around not too sure about it?

CHAIRMAN COATES: I don't think they're too sure at this point. David.

MR. BORDEN: To Jack's point, I don't have any reservations about providing some time to try to fix the problem, but I don't think we want to -- I think Harry Mears raised an important point. We've been here before, we've discussed this issue, we've got to move forward with it and resolve it. But it's got to be done in a fairly fast time frame, from my own perspective. I mean, there's a certain amount of credibility on the line here in terms of the whole process. We've been here, we've done this, we've had this discussion, and somehow we've got to take another step to get on the same venue as the New England Council.

CHAIRMAN COATES: Sounds like a concurrent initiative then, a framework or an addendum that does what we need to do right now plus the action, the further action we've already approved, so that they would have to be concurrent. But we need a motion if in fact that's -- Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Well, Mr. Chairman, I'm beginning to think that there's enough going on here that we would all be better informed if we had a chance to think about this. And rather than pass a motion tonight, I'd like to suggest that we go home and follow up on some of these things and bring you back something that makes a little more sense and is a little bit better tied together during the March meeting.

CHAIRMAN COATES: You want to wait till

March? Do you want to wait till March, folks?

EXECUTIVE DIRECTOR DUNNIGAN: I just think that -- especially if what we have --

CHAIRMAN COATES: Well, we'll have more information under our belt.

EXECUTIVE DIRECTOR DUNNIGAN: -- to do is spend some time with the New England Council.

CHAIRMAN COATES: We'll probably have a better sense of what the New England Council's sending forward in Framework 27.

EXECUTIVE DIRECTOR DUNNIGAN: I think, you know, the Board has indicated it wants to go some place in terms of an amendment, and the question of what we want to do while that's pending is still unclear and deserves a little bit more careful consideration than we're able to give it here this evening.

CHAIRMAN COATES: Well, I think in that time line, I think we're safe in doing that right now. We don't have an imminent crisis. The signs are positive. The likelihood of enormous amounts of displacement and things like that. I think what we're going to see when we see the '98 landings, we're going to have a little surprise, which is going to be -- we've got '98 landings yet?

MR. CORREIA: That's the projection that I'm working off in terms of --

CHAIRMAN COATES: They're going to be up quite a bit I think. We're going to be a little bit disappointed with -- there's been some significant redirection of effort in Southern New England, but that's, you know -- fish are available if people who are going to fish for them.

MR. CORREIA: The 1997 F, the actual F, the actual landings is at the F30 level. What happened is landings are increasing faster than the stock size in 1998, projected landings. So it's projected that the F will go up.

CHAIRMAN COATES: Bruce.

MR. FREEMAN: Mr. Chairman, did you indicate you were going to initiate the Plan Monitoring Committee?

CHAIRMAN COATES: Plan Development Team?

MR. FREEMAN: Well, either way. My concern is, if you look at these motions, it's all to staff, all to staff, and if Joe's the staff, he's going to be a very busy guy.

CHAIRMAN COATES: Well, we've only made one motion. We've got a lot of --

MR. FREEMAN: There's been a lot of discussion.

CHAIRMAN COATES: -- significant looks at each other, but we've only got one motion at this point. And we have a couple of consensuses. Yes, Jack.

EXECUTIVE DIRECTOR DUNNIGAN: Bruce,

directions to staff imply that we follow through with our typical procedures, which would involve a PRT, a Plan Development Team, as appropriate.

MR. FREEMAN: I just think it would be helpful

EXECUTIVE DIRECTOR DUNNIGAN: We'll get you all involved.

MR. FREEMAN: It would be helpful to do that, because I could see this falling, Jack, on you and Joe, and it certainly needs to be spread out a little bit more.

EXECUTIVE DIRECTOR DUNNIGAN: No, no, no, no. You have a much bigger staff than just me and Joe. And all the people you have working for you back home. I see your point.

MR. FREEMAN: I just think we need to move on this. We need to move in an efficient manner. And if we don't have such a group, we should institute such a group.

CHAIRMAN COATES: Okay. Harry.

MR. MEARS: Mr. Chairman, given our discussions here today and also during, as we noted, the past several years, it would be a serious missed opportunity if this Board did not prepare a letter in response to the draft Amendment 9 that's currently out for public period. I mean, if there's one time period where there's any chance of forging a joint resolution of the overfishing situation and jointly develop target fishing mortality reductions, this would be the time to go on record.

CHAIRMAN COATES: To that challenge, shall we set up a subcommittee or just ask the staff to begin to work on a letter? Do you want to provide input to the staff as soon as possible on thoughts? How do you -- anybody that's got any ideas, get them to the staff.

EXECUTIVE DIRECTOR DUNNIGAN: And we'll run the letter through the chairman.

CHAIRMAN COATES: Gordon? And Gordon will coordinate.

MR. COLVIN: With all respect, it's not that simple.

CHAIRMAN COATES: I know it isn't.

MR. COLVIN: The position of the Board is a matter of record.

CHAIRMAN COATES: There's some very divergent views about Amendment 9.

MR. COLVIN: Pardon me?

CHAIRMAN COATES: There's some very divergent views about Amendment 9.

MR. COLVIN: And the Board has a position of record, and it's inconsistent with what the New England Council has recommended to the Secretary. But all that was done before the results of the new assessment, which put everything in a different light. And I suspect we could stay here for the next two days trying to decide what to put in the letter, quite frankly. So, you

know, I understand what Harry's saying. He's absolutely right. But I am not comfortable recommending to the Board or to the staff what our comments be above and beyond what we've already said, which is that we preferred the trip limit option, we thought it was more effective and avoided some problems that some of the Board members have with the final action. We can say that, that's our position of record, and I want that remembered. But beyond that, I don't know what we could say.

CHAIRMAN COATES: What do you think, Board? Submit thoughts, put together and let the staff take a shot at putting together a letter, those people who want to comment, and if we don't like it, we can just trash it? What's your pleasure? Bud.

MR. BROWN: Well, I've got a question. Is the Board's letter going to reflect the charge to the technical people to assess the Gulf of Maine stock as best they can? Because I suspect that very draconian measures will be required up there.

CHAIRMAN COATES: I suspect it should if it's on Amendment 9 and Amendment 9 is through the range. Yes. I'm seeing nods. All right. Are we agreed, then, that we will provide comments to the staff, and an effort will be made without any final agreement on this to try and craft a letter, recognizing the issue that Gordon raised. He's right. There are very divergent views on this. Let the Chairman take care of any divergent views.

MR. COLVIN: There is a position of record, Mr. Chairman.

CHAIRMAN COATES: And there is. We would certainly have to incorporate that. Steve.

MR. CORREIA: I guess there's one thing that may have slipped through in terms of the analysis, and I guess this gets back to parts of the states' strategies to alter the reference point, alter the PR to bring the reference point so they wouldn't have to take as much of a cut in the fully recruited fishing mortality rate, and that is that the partial recruitment for the whole stock has not changed throughout the whole time period of this plan.

So that means that some of the changes in the PR are being masked somewhere. Some of the assumptions where we assumed the PR was going to improve because of this, that or anything else hasn't occurred. So some of the credit that individual states have taken, for instance, like say, Massachusetts where we took some credit because we increased the mesh and we thought there'd be some benefit to it, has not shown up in the whole assessment.

So somewhere something hasn't changed. I mean, if we got a benefit then that PR change got worse some place else, because there's been no change to it. And I

guess that's the only component that we have in terms of saying how well the states do.

OTHER BUSINESS

CHAIRMAN COATES: Okay. Further comment on this issue? All right. I think we've covered 5, 6 and 7 more or less. We're down to other business. I had on my list the approval of the 1998 FMP review. Yes, Bob, go ahead.

MR. MORRIS: The comment I'd like to make is that it was brought up earlier that we're seeing a collapse in Narragansett Bay. We are not seeing a collapse of the larvae. The larvae's continually coming in. But what is killing the larvae? That's what we have to find out. And it's another whole realm of learning. I personally firmly believe that chloramines, which are coming from the chlorination of sewage treatment plants and power plants is definitely, without a question, the major killer of this flounder industry, that if we don't turn around and stop the overpollution -- we keep on bringing up overfishing. It's overpollution that's invisible.

And these chloramines -- the protozoa that the flounder larvae needs to survive are 10,000 a day. You start taking the nutrients out of the water, they're going to starve to death. Now, we're not seeing the larvae come to fruition and bring back to biomass, and I think this is something -- I know that this Council is not in the environmental business, so to speak, but I think that something has got to be done, because it's not just affecting the flounder, it's affecting everything that's in the ocean. And the chemical giants have turned our estuaries into a place of business for them to get rid of their chemicals.

CHAIRMAN COATES: Okay. Thank you. Yes, go ahead.

MR. ADLER: On that, that would a lot of the time go to the essential fish habitat issue, wouldn't it?

CHAIRMAN COATES: Well, winter flounder has defined essential fish habitat, and the Council has adopted the Council plan -- I'm sorry, the ASMFC plan. It was actually, when it was passed, it was identified as one of the plans that really identified some of the habitat issues. It was habitat intensive, attempted to identify some of the environmental issues that might affect flounder abundance and things like that. So it's very intensive in that way.

And certainly, you know, Bob's comments about his perception about what's happening in Narragansett Bay are shared by others. And winter flounder seem to be somewhat sensitive to environmental conditions, being an inshore spawner. And essential fish habitat at the Council level has been submitted, that amendment,

which would include, I believe, right to the beach.

MR. ADLER: Okay. That's what I was going to ask.

CHAIRMAN COATES: We made sure that was included, all the estuarine habitat. So it will come under the purview of the essential fish habitat amendment, that portion of the --

MR. ADLER: All right. So in other words, essential fish habitat, the Council has already included that essential fish habitat also means land-based sources of basically pollution, but it's not pollution. You know, it's --

CHAIRMAN COATES: Yes, I don't know what the amendment says specific to that, Bill. It just identifies all the estuarine waters as well as the waters out to 40 fathoms or so as being critical habitat or essential fish habitat for winter flounder. I don't have the amendment in front of me.

MR. ADLER: All right. But do they mention things like outfall pipes and --

CHAIRMAN COATES: I don't think it's been that specific at this point. I don't know. I haven't read all the aspects of the plan. But I think its related man-caused, you know, activity and things like that as definitely in there. There's Mr. Habitat himself just happens to be with us tonight, folks.

MR. NELSON: Thank you, Mr. Chairman. Yes.

Approval of 1998 FMP Review

CHAIRMAN COATES: Thank you. All right. Now, anything else on this? Let's move to the approval of the FMP review. Is there a motion to approve the FMP review that's been submitted? Everybody had a chance to review it? Is there a motion to approve the FMP review?

MR. CORREIA: Could I have a comment? There was a recommendation in there in terms of, I believe, trying to measure anthropogenic mortality and to put that into the effects on biological reference points. If you approve that, is that going to be a task that we have to do? Because it's going to be very difficult to try and measure some of these mortalities.

I believe there were some recommendations by the FMP -- in fact, there was a fairly high one that said to focus research on quantifying mortality associated with habitat loss and alteration, contamination by toxics and power plant entrainment and impingement, and then it should be designed to provide reliable estimates of anthropogenic mortality from sources other than fishing, and both mortality sources should then be incorporated into fishery yield per recruit models to simultaneously evaluate these whole mortality factors. And that's just a very difficult assignment.

DR. DESFOSSE: I would just say, Steve, that these are not tasks for the Technical Committee. These are research recommendations and monitoring recommendations. They're not specific to the Technical Committee.

MR. CORREIA: That was the clarification I wanted. Thank you.

CHAIRMAN COATES: Okay. You've got a clarification. Is there a **motion to approve the FMP review?**

MR. ADLER: I'll make the motion.

CHAIRMAN COATES: Second?

MR. NELSON: Second.

CHAIRMAN COATES: Discussion? All in favor. Are we going to do this -- oh, does this require a caucus? Doesn't require a caucus. Majority vote, consensus. Is there a consensus to approve the FMP review? Anybody? All right. Any in opposition? Fine. All right. What else have we got for other business? Is that it? Yes.

Suspension of State Compliance with F40

MR. BORDEN: Mr. Chairman, I'm feeling somewhat uncomfortable with the way we left the F40 target in consideration of the fact that all of us are going to go back and talk to our constituents, and I'm not sure we're going to all carry a uniform message as to where we are. So if Jack would put this up, if this helps -- this helps me, but I'm not sure it will help everyone else. And if people generally like this idea, I'd be happy to make it as a motion.

CHAIRMAN COATES: Gordon.

MR. COLVIN: I think this is a reasonable resolution of our dilemma, and I'd be prepared to second it.

CHAIRMAN COATES: Is there a motion?

MR. BORDEN: I'll make it as a motion.

CHAIRMAN COATES: And there's a second from Mr. Colvin. Discussion on the motion? I will read it.

Moved that the Board suspend consideration of any state's compliance with the F40 contained in Addendum 1, as amended by Addendum 2, pending development of a new amendment to the FMP, so long as a state maintains and continues to implement and enforce its current regulations.
George.

MR. LAPOINTE: I don't think it needs to be in the motion, but I think part of the action should be relaying of why we're taking this action to both the New England Council and the National Marine Fisheries Service, absolutely.

CHAIRMAN COATES: All right. Anybody disagree? We haven't made the vote yet. David.

MR. BORDEN: I'd just note for the record that we're probably going to want to come back and make a proposal to the Board regardless of what other actions take place to modify our regulations. There have been proposals that have gone forward to actually close all of Narragansett Bay to winter flounder fishing. So my assumption here is that that would be allowed by the -- if the motion passes, that it be more restrictive in terms of -- as long as that's a common understanding, I'm comfortable with it.

CHAIRMAN COATES: Okay. Further discussion? Ready for a vote? All in favor, signify -- oops, this is a consensus. Caucus. Jack? Majority? All in favor, signify by saying Aye; those opposed. We have a consensus. We have a unanimous vote. Nobody didn't like that? Any abstentions? One abstention. All right. Any other business? We stand adjourned. (Whereupon, the meeting adjourned at 6:45 p.m., January 11, 1999.)
